

A.E. Roberts

Part I. Pierre d'Ailly and the Great Schism.

The outbreak of the Schism and its effects, chiefly in France. Charles V, the University of Paris and the Avignon Papacy. Proposed means of ending the Schism; the way of a general council, the way of compromise and the way of coercion.

D'Ailly's "The Theories of Cardinal Pierre d'Ailly concerning Forms of Government in Church and State, with special reference to his interest in suggestions made by William of Occam."

and the Councils of Pisa and Constance. D'Ailly and reform.

Summary of Thesis for the M.A. Degree, by Agnes E. Roberts.

To be presented for the May Examination 1931.

standard of integrity and learning in its officials, and for the cooperation of the laity in the work of reform.

Part II. Pierre d'Ailly's general theories.

D'Ailly's conception of dominion in the state and "ministerium", its equivalent in the Church, as derived from God, directly or indirectly, and of the consequent limits of the ruler. Law as a derivation of the Divine Will, and as a reflection of the Divine Will. Justice as an end in itself, and as a reflection of the Divine Will. The ruler's duty to maintain the law in accordance with the will of God.

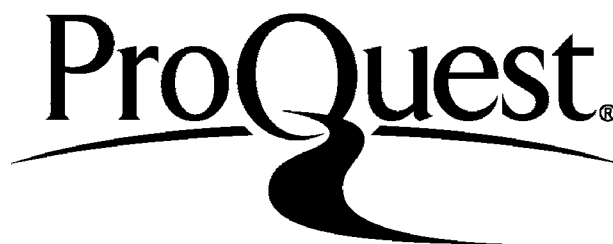
ProQuest Number: 10107195

All rights reserved

INFORMATION TO ALL USERS

The quality of this reproduction is dependent upon the quality of the copy submitted.

In the unlikely event that the author did not send a complete manuscript and there are missing pages, these will be noted. Also, if material had to be removed a note will indicate the deletion.



ProQuest 10107195

Published by ProQuest LLC(2016). Copyright of the Dissertation is held by the Author.

All rights reserved.

This work is protected against unauthorized copying under Title 17, United States Code
Microform Edition © ProQuest LLC.

ProQuest LLC
789 East Eisenhower Parkway
P.O. Box 1346
Ann Arbor, MI 48106-1346

"The Theories of Cardinal Pierre d'Ailly concerning Forms of Government in Church and State, with special reference to his interest in suggestions made by William of Occam."

Part I. Pierre d'Ailly and the Great Schism.

The outbreak of the Schism and its effects, chiefly in France. Charles V, the University of Paris and the Avignon Papacy. Proposed means of ending the Schism; the way of a general council, the way of compromise and the way of cession. D'Ailly's own attitude^u to the problem: the retraction of obedience (a) in 1403, and (b) in 1406, and his opinion as to its justification. D'Ailly and the Council of Paris in 1406.

The way of a general council in practice; d'Ailly and the Councils of Pisa and Constance. D'Ailly and reform; his plea for stricter discipline in the Church, a higher standard of integrity and learning in its officials, and for the cooperation of the laity in the work of reform.

Part II. Pierre d'Ailly's general theories.

D'Ailly's conception of dominion in the State, and "ministerium", its equivalent, in the Church, as derived from God, directly or indirectly, and of the consequent sanctity of the ruler. Law as a derivation of the Divine Will, and the Scriptures as law par excellence. Justice as an act of will, varying in its manifestation in accordance with the variety of

human relationships. Fundamental principles recognisable in these ideas.

D'Ailly's conception of the ecclesiastical hierarchy and the polity of the Church. His attempt to reconcile his belief in the right of the community to elect its rulers with his belief in the Apostolic Succession. His discussion of the powers and responsibilities of the Universal Church, the Episcopate, the Cardinalate, the Papacy and the General Council.

Part III. Pierre d'Ailly and William of Occam.

The influence of the work of William of Occam at the University of Paris. D'Ailly's early identification with the Nominalist school of Philosophy. D'Ailly's frequent quotations from Occam, e.g. his use of Occam's work concerning the nature and powers of the Universal Church.

D'Ailly's "Abbreviatio dialogi Ockam" and his incidental comments as revealing his own opinions. The significance of d'Ailly's use of Occam's "heresies".



THE THEORIES OF CARDINAL PIERRE D'AILLY
CONCERNING FORMS OF GOVERNMENT IN CHURCH AND STATE
WITH SPECIAL REFERENCE TO HIS INTEREST IN
SUGGESTIONS MADE BY WILLIAM OF OCCAM.

PART I
PIERRE D'AILLY AND THE GREAT SCHISM.

CHAPTER I.
INTRODUCTORY.

Over half a century ago the importance of Pierre d'Ailly in the history of both Church and State was fully¹ recognised. Since that time, further research has revealed still further the extent and the importance of his activities. The results of his thought have been felt in more than one sphere; Columbus, in his voyages across the Atlantic, relied² to some extent on the cosmography of the Cardinal of Cambrai; Martin Luther studied his philosophy and theology deeply, even to committing whole pages of his work to heart. Scarcely less important is his contribution to the development of political thought. It is not claimed that he was original in this

-
1. "Le développement du schisme et surtout les événements du concile de Constance ne se comprennent pas en dehors de son action personnelle; on pourrait faire l'histoire de ces quarante ans sous le titre de: Pierre d'Ailly et son temps." - Max Lenz, in the *Revue Historique*, vol. IX (1879) p. 464.
 2. See F. de Almeida, *La Découverte de l'Amérique*. Pierre d'Ailly et Christophe Colomb. Extract from the *Revista de História*, April-June 1913.

direction, - it is part of the purpose of the present work to show his debt to his predecessors, - the interest of his achievement lies rather in his co-ordination and application of existing theories concerning forms of government in Church and State. In his theory of the universe he was an Augustinian; he believed that faith, rather than reason, gave the key to the meaning of things. In his theory of the State he was an Aristotelian; he believed firmly that Aristotle's "mixed constitution" was the best possible, and was therefore to be applied to the government of the Church, which should be the best possible polity. In his theory of the origin of both temporal and spiritual power he followed the Christian Fathers; he believed that all power, whether vested in the worthy or in the unworthy, was ordained of God; in his theory of the origin of office he followed the Roman jurists and traced all office and the power to confer office back to the community concerned.

The forty years of his public life saw the working out of what was probably the most crucial problem in the whole history of the mediaeval Catholic Church; naturally his interest was directed to the study of the government of the "respublica Christiana" by the advent of two rulers who simultaneously claimed the sovereignty of Christendom. The discussion of the nature of government and of how it could be vested in order to prevent the recurrence of such a problem was a vital one.

The Great Schism had broken out by the time d'Ailly was reaching the end of his career as a student. Born in 1350, of a humble family in Compiègne, d'Ailly began his academic career by being sent as a bursar to the College de Navarre in Paris. There he took a course in the humanities before passing on to the Faculty of Arts in the University of Paris, where he interested himself in the study of logic, and indentified himself with the Nominalists. In 1365 he took his "determinatio" and entered the Faculty of Theology, where he became a "baccalarius cursor" after six years study. By this time he had shown himself to be a student of outstanding merit, and in 1372 he was elected procurator of the French Nation. During his years as a "baccalarius cursor" he had to comment publicly on certain books of the Scriptures, one from the Old Testament and one from the New: he probably chose the Song of Songs and the Gospel of St Mark. In 1375 he became a "sententiarius", and in that capacity he had to produce a commentary on the famous "Sentences" of Peter Lombard, which he never finished. In the same year his reputation as a brilliant young student caused him to be invited by Jean de la Grange to preach before an ecclesiastical synod that was being held at Amiens. He did so, - on the subject of the duties of ecclesiastics.¹

1. Sermo in synodo Ambianensi, printed in his Tractatus et Sermones, Argent.1490.

Finally he took his doctorate in 1380 when he produced his "Quaestio in vesperiis" and his "Quaestio de resumpta" in the usual way. It was at this time that he first began to write on the subject of the Schism that had begun two years before.

In 1386 he was made Canon of Noyon, and he withdrew to his benefice for the next few years, till his recall by a royal edict which summoned him to take up the position of Rector of the College de Navarre, where Gerson and Clemanges became his devoted pupils.

Between the years 1388 and 1389 he was at Avignon, representing the University of Paris in the case of John de Montesono and his appeal to the Pope. On his return in 1389 he was made Chancellor of the University of Paris in the place of John de Guignicourt; at the same time he resigned the rectorship of the College de Navarre and became almoner and secretary to Charles VI.

In 1391 André de Luxembourg made him Archdeacon of Cambrai, when he resigned his chantry of Noyon and exchanged his canonicate for that of St Clement of Compiègne.

On the accession of Benedict XIII in 1394, Charles VI sent Pierre d'Ailly to congratulate the newly elect, and to express the hopes which France felt that the end of the Schism was in sight. Clemanges, who was at this time Benedict XIII's

secretary, recommended his former master to the Pope, who in 1395 made d'Ailly Bishop of Puy. He held this see till 1396, when he was made Bishop of Cambrai on the death of André de Luxembourg. Philip of Burgundy, who had no liking for d'Ailly did all he could to bar the appointment, but in spite of his opposition, d'Ailly took possession and swore fealty to his metropolitan, the Archbishop of Rheims, and to the Emperor as Count of Cambrai. The fact that as Bishop of Cambrai he was the subject and vassal of the Emperor and not of the King of France stood him in good stead later when he departed from the policy of the University and the court of France; he practically took refuge in his see in the year 1408, when he was maintaining the cause of Pope Benedict in the face of the French court and the University of Paris.

His work for his flock in the diocese of Cambrai was considerable; he interested himself alike in the welfare of his people and clergy and in the beauty of his churches. In 1403, however, he had to leave his see to attend a meeting of the clergy in Paris, where he again advised obedience to Benedict, who had escaped from his palace at Avignon which was being besieged by Boucicault at the orders of Charles VI. It was two years before his diocese saw him again, and then he remained there only a short time before he returned to Paris to take part in the Council of 1406.

From that time on he definitely departed from the official policy of the court and the University till he joined the Council of Pisa in 1409, and proved himself one of its most able members and apologists. By 1410 he realised the futility of Benedict's promises, and having written to him what amounted to a letter of farewell, he again returned to his diocese.

In the following year he was created Cardinal with the title of Cardinal of St Chrysogon by John XXIII, and after attending the Council of Rome, summoned by John XXIII in 1412, which failed owing to the scanty attendance, he was made papal legate in Germany. There he passed the next two years, except for a short visit to his diocese of Cambrai in 1413, until his attendance at the Council of Constance, at which he arrived on November 23rd 1414.

His work at the Council of Constance is of extreme importance; the value of his opinion and advice was recognised again and again by the members of the Council, and in 1418 he was made papal legate in the Comtat-Venaissin by Martin V, as an acknowledgement of his services.

The end of his life was not happy. France was torn by internal dissension and threatened with annihilation by a foreign foe. Paris was in the hands of the Burgundians, and the condemnation of Jean Petit's apology for the Duke of

Burgundy's murder of the Duke of Orleans, which d'Ailly had done so much to procure at the Council of Constance, had to be withdrawn by the Rector of the University. D'Ailly's friends were persecuted, and some of them were killed; the College de Navarre suffered severely. Had d'Ailly been nearer to Paris at the time, he might have suffered too; as it was he died in peace at Avignon, in August 1420.¹

During his eventful life he changed his views many times. He has been accused of tergiversations and of self-interest both by his own contemporaries² and by later historians. It is difficult, however, to see how any man who was really honest could have avoided tergiversations at such a time; consistency becomes undesirable in the face of changing circumstances. D'Ailly, in spite of his scholastic training, had a thorough appreciation of the demands of fact. The Schism presented to him a practical problem, and he changed sides according to what he believed to be the best solution. In 1380 he seems to have approved of some sort of compromise; on this proving hopeless, he supported a general council, as the only possible means. It soon became evident that the obstacles in

-
1. For the dates and facts of d'Ailly's life, see L.Salembier's latin thesis "Petrus de Alliaco", Lille, 1886. Also "Un évêque français au XIV^{me} siècle," by R.Pontvianne which is taken from M.Salembier's work.
 2. Especially Boniface Ferrer, Tractatus pro defensione Benedicti XIII, in Martène et Durand's Thesaurus novus anecdotorum, cols.1435-1529, esp.col.1447, caput XXI.

the way of such a council were almost insurmountable, and d'Ailly therefore turned to the proposal of the resignation of both the contestants simultaneously, which he had previously rejected. By 1406 he was supporting Benedict, who had promised cession and a general council, though not very convincingly, it is true; the uselessness of the withdrawal of obedience which France had made in 1398 was obvious, and d'Ailly probably thought that to support Benedict, who did at least offer the required solutions, might be more productive of results than a futile attitude of rebellion which was legally unjustifiable, since France had recognised Benedict as Pope.

By 1409 he realised the worthlessness of Benedict's word, and he therefore supported the Council of Pisa, not, however, without realising its limitations, as his warning letter to the Cardinals shows.¹

It was at the Council of Constance that his genius for realising the practical needs of the situation showed to the best advantage. He recognised the fact that the Council was in many ways an abnormal one, and he sacrificed his theories of the correct procedure to what he saw was the need of the day. With regard to the voting in the Council, he set aside his

1. See infra, p. 78.

belief that the laity attended general councils only in the capacity of witnesses or executors,¹ to recognise the position of the laity and the members of the Universities at the Council,² and the importance of the interests they represented. With regard to the matter of the election of the new Pope after the deposition of John XXIII, d'Ailly again departed from his theory in admitting representatives of the Council outside the College of Cardinals to the voting; he himself puts forward the doctrine of expediency in his proposals for a temporary system of voting which is not to be regarded as creating any sort of precedent.³ He was one of the first to recognise that all things that are lawful are not expedient, and that the law must on occasion make way for expediency when the welfare of the Church is at stake.

It was his practical interest that led him ultimately to desert the point of view of Occam, whom he followed almost whole-heartedly in some respects, especially in his early writing, in favour of the papalist view. Himself a participator in the work of the Council of Constance, he was forced to realise the futility of the system it stood for. The conciliar ideal of Church government was practically unworkable in view of the

1. De materia Concilii generalis, Bibl. Nat. Paris MS 1571, f. 19-20

2. Von der Hardt, II. 224 et seq. also Op. Ger. II, 914. 941

3. Modus vel forma eligendi summum pontificem in Tractatus et Sermones.

circumstances and the conditions obtaining in fifteenth century Europe, and the fact was made manifest during the four years of the Council's life. The papal monarchy, far from being unworkable, was, and still is a living institution. To accuse d'Ailly of timeserving because he appreciated the fact is irrelevant and somewhat absurd. That the purity and integrity for which he strove did not and could not come in his time, was not d'Ailly's fault. He was a theorist, but he was no dreamer of Utopias; his theories concerning forms of government in the Church are formulated on what he believes to be fundamental facts, and are rejected or modified as soon as they prove incompatible with conditions.

vi. Quæstio de responsis. Utrum Patri ecclesie
Sede gubernatur, Sede regulatur, Sede confir-
matur, Sede dominatur. cols. 672-673.
(Numbers v and vi printed also in Quæstiones de
Sacerdotio, Argent. 1450).

vii. Summa curam Papa Clementis VII. exco-
municavit circa negotium Universitatis Parisien-
sis adversum Johannem de Malesherbes. cols. 674-
675.

viii. Proponitur facta in consistorio contra
Johannem de Malesherbes. cols. 702-703.

ix. Apologia sanctissimæ Theologie Parisiensis
circa Johannem de Malesherbes de Malesherbes. cols.
704-705.

NOTE TO INTRODUCTORY CHAPTER.

The following list of the works of d'Ailly which are relevant to the present subject, and particulars as to where they are to be found, is added as an elucidation of the footnote references.

1. Works printed in Ellies Dupin's edition of the works of Jean Charlier de Gerson, Antwerp 1706, 5 volumes.

In Volume I - i. Recommendatio sacrae Scripturae. cols. 603-610.

ii. Principium in cursum Bibliae. cols. 610-617.

iii. Quaestio de legitimo dominio. Utrum Christi dono gerens potestatem solum in hominibus iuste dominetur. cols. 641-646.

iv. Utrum indoctus in iure divino possit iuste praeesse in ecclesiae regno. cols. 646-662.

v. Quaestio in suis vesperiis. Utrum Petri ecclesia lege reguletur. cols. 662-672.

vi. Quaestio de resumpta. Utrum Petri ecclesia Rege gubernetur, Lege reguletur, Fide confirmetur, Iure dominetur. cols. 672-693.

(Numbers v and vi printed also in Quaestiones de Sententiis, Argent. 1490).

vii. Sermo coram Papa Clemente VII Avenione habitus circa negotium Universitatis Parisiensis adversum Johannem de Montesono. cols. 697-702.

viii. Propositio facta in consistorio contra Johannem de Montesono. cols. 702-709.

ix. Apologia facultatis Theologiae Parisiensis circa damnationem Johannis de Montesono. cols. 709-722.

In Volume II - i. Epistola ad Benedictum XIII. cols. 105-106.

ii. Octo conclusiones per plures doctores in Italiae partibus approbatae quarum dogmatizatio utilis videtur pro exterminatione moderni schismatis. cols. 110-111.

iii. Aliae propositiones utiles ad exterminationem praesentis schismatis per viam Concilii generalis. cols. 112-113.

iv. Epistola ad Johannem XXIII. cols. 876-877.

v. De emendatione Ecclesiae. cols. 903-916. Same as part 3 of De materia Concilii generalis.

In Volume IV -

vi. Sermo de Adventu Domini, or Oratio de officio Imperatoris, Pape, Reliquorum Membrorum Concilii Constantiensis, Pro Emendatio Ecclesiae. cols. 917-924. Also in Von der Hardt I, 436.

vii. De Ecclesiae, Concilii Generalis, Romani Pontificis et Cardinalium Autoritate. cols. 925-960. Also in Von der Hardt vol. VI.

De modo et forma eligendi Papam. cols. 1482-1487

In Volume V - Schedulae, declarationes et responsiones Cardinalis Cameracensis in causa Johannis Parvi, - throughout the volume.

3. Printed in Appendix to Paul Tschackert's "Felix von Ailly" Cologne, 1877.

2. Works printed in Von der Hardt, Rerum Concilii Oecumenici Constantiensis, Fraefort, 1696. 7 volumes. N.B. pagination very imperfect.

ii. Questio de reprobatione Petri a Paulo

In Volume II - i. Responsio ad illam Italorum schedulam... De propria Pisani Concilii autoritate. cols. 192-195.

ii. Scheda nova... de duabus pontificibus... ad spontaneam cessionem blande invitandis. cols. 196-199.

7. Apologia Concilii Pisani contra Improbationem
secundum Bonifacii quondam prioris Carthusiensis
Appendix pp. 31-41

In Volume II (continued) .

iii. Alia schedula Johanni Papae exhibita...
duos reliquos contententes Pontifices ad
spontaneam cessionem invitandi. cols.198-201.

iv. Conclusiones de Pisani et Constantiensis
Concilii unitate. col.200-203.

v. Responsio ad illas Johannis Papae exceptiones,
cessioni desideratae oppositas. cols.220-223.

vi. Disputatio de iure suffragii in Concilio
quibus competat.cols. 224-227.

In Volume IV - i. Num Wiclefi doctrina, Concilii, an Papae, an
utriusque nomine damnanda.pp.136-7.(pagination
wrong here).

ii. Propositiones pro iure Concilii suo non Papae
nomine res fidei in Concilio definiendi. p.137.

iii. Hussus secunda vice publice in concilio
examinatus.pp.308-314; Tertium examen pub-
licum Hussi.pp.314-329.

De modo et forma eligendi Papam. cols 1452-1457
(Also printed in Tractatus et Serpmones, Argent.1490

3. Printed in Appendix to Paul Tschackert's "Peter von Ailli".
Gotha, 1877.

i. Epistola Diaboli Leviathan - Appendix pp.15-21

ii. Quaestio de reprehensione Petri a Paulo -
part only - pp.28-9. Appendix.

iii. Epistola ad Cardinales in civitate Pisana
congregatos missa. Appendix pp29-30.

iv. Epistola altera ad eosdem missa App.p.30.

v. Apologia Concilii Pisani contra tractatum
domini Bonifaci quondam prioris Carthusiae -
Appendix pp.31-41.

4. Printed in Martène et Durand, Veterum scriptorum et monumentum historicum, dogmaticorum, moralium amplissima Collectio.

In Volume VII, Conclusiones in civitate Tarraconensi propositae.
Cols. 916-918.

5. Printed in Mansi, Sacrorum Conciliorum nova et amplissima Collectio.

In Volume 27, Negotiations with Charles de Malatesta, cols. 250 and 270.

6. Printed in D'Argentré, Collectio Iudiciorum de Novibus Erroribus.

In Volume I, part 2, a better text of the case of Johannes de Montesono than that in Op. Gers., pp. 69-129.

7. Printed in Bulaeus, Historia Universitatis Parisiensis.

In Volume IV - Epistola Petri de Alliaco, Aegidii de Campis, et Nicolai de Clamengiis ad regem Carolum directa. pp. 687 et seq.

8. Printed in Bourgeois du Chastenet, Histoire du Concile de Constance, Preuves.

Speeches at the Council of Paris 1406.

9. Printed in Tractatus et Sermones, Argent 1490 (no pagination).

- i. Sermo factus die Domenica in Septuagesima.
- ii. Speculum considerationis.
- iii. Compendium contemplationis.
- iv. Modus vel forma eligendi summum pontificem
(Also in Von der Hardt IV, 1452-1457).

10. Quaestiones super primum tertium et quartum Sententiarum.
Argent. 1490 (no pagination)

11. Manuscripts.-

i. Abbreviatio Dialogi Okam facta per P. de Alliaco, Cardinalem Cameracensem, Paris, Bibliothèque Nationale no.14579, ff.88-101.

The ii. De materia Concilii generalis, Paris, Bibliothèque Nationale no.1480, ff.83-122; no.1571; no.3124 ff.27 et seq. (Part 3 printed in Op.Gers.II,903)

For the first time in the history of the Church a schism had arisen in which it was not clear which of the two claimants was the rightful successor of St Peter. iii. Scriptum contra Waldenses, Paris, Bibliothèque Mazarine, no.1683 (Recueil de Pièces sur les Conciles de Constance et de Bale) ff.6-34.

iv. Propositiones in Concilio Regis, 1408, Paris, Bibliothèque Nationale no.15167 f.152.

On April 28th 1378, the Archbishop of Bari was elected Pope in Rome amid the clamours of a Roman mob that surged round the conclave demanding "a Roman, or at least an Italian pope", and threatening the Cardinals with death if they did not comply with their demand. So great was the terror of the Cardinals, that although their choice had fallen on an Italian, they made a pretence of enthroning the aged Cardinal Zabaldeschi, who was a Roman. When the mob had been appeased, however, the Cardinals ratified their election of the Archbishop of Bari, who thus became Pope Urban VI. The College gave him full recognition and all the honours due to his position, and those Cardinals who were in Avignon at the time of the election wrote to assure the newly elected of their adherence, on June 15th. In a few weeks, however, rumours respecting the validity of the election spread, and the

CHAPTER II.
D'AILLY AND THE SCHISM.

The Great Schism, which began with the double election of 1378, presented peculiar difficulties to contemporaries. For the first time in the history of the Church a schism had arisen in which it was almost impossible for the faithful to decide which of the two contestants was the rightful successor of St Peter.

On April 8th 1378, the Archbishop of Bari was elected Pope in Rome amid the clamours of a Roman mob that surged round the conclave demanding "a Roman, or at least an Italian pope", and threatening the Cardinals with death if they did not comply with their demand. So great was the terror of the Cardinals, that although their choice had fallen on an Italian, they made a pretence of enthroning the aged Cardinal Tebaldeschi, who was a Roman. When the mob had been appeased, however, the Cardinals ratified their election of the Archbishop of Bari, who thus became Pope Urban VI. The College gave him full recognition and all the honours due to his position, and those Cardinals who were in Avignon at the time of the election wrote to assure the newly elect of their obedience, on June 24th. In a few weeks, however, rumours impeaching the validity of Urban's election were being spread

about, and a certain anxiety began to be felt in Christendom on the matter. An opposition party came into existence in Rome, centred in the Castle of St Angelo, and as the summer approached, the opposition Cardinals made the excuse of the increasing heat to retire to Agnani. Finally the Cardinals at Agnani sent a letter to the Pope (August 1378) in which they definitely stated that they had been terrified into electing him, and called upon him to abdicate accordingly.¹ This they followed up with a public declaration that they had been coerced into the election of Urban,² who was thus no true Pope, and on August 9th they issued an encyclical to the "Universis Christi fidelibus" to the same effect, which they dated "sede vacante".³ They then put themselves under the protection of the Count of Fondi, no friend to Urban VI, and on August 29th they left Agnani for Fondi. During the next month they were joined by the Cardinals Orsini, Borsano and Corsini, who were sent by the Pope to attempt to reconcile the Cardinals of Agnani to his obedience once more. They suggested three possible means of reconciliation, a general council, a compromise, entailing a new election by special

1. Bulaeus, Hist. Univ. Paris. IV, 467.

2. Ibid. p. 468.

3. Ibid. pp 474-476.

delegates, and the re-election of the Archbishop of Bari - all in vain.

It was at this time that the King of France took the action which has laid him open to the charge of fomenting the trouble and indirectly causing the Schism. He sent a letter to the Cardinals at Fondi, assuring them of his support if they would elect a pope who would be acceptable to the French nation. As the majority of the Cardinals were French by birth or by interest, they were only too ready to agree, and on September 20th the election took place. The three Italian Cardinals, who had not returned to Urban, refrained from voting, but the remaining thirteen agreed almost unanimously on Robert of Geneva, who took the name of Clement VII.

It was extremely difficult for Christendom to choose between the rivals. Robert of Geneva himself had been among the first to announce the election of Urban VI as an indisputable fact. The Cardinals, whose word was the only evidence the laity had to go upon, contradicted each other, and in some cases¹ contradicted themselves. One fact very damaging to the case

1. It has been suggested by later historians that the real reason for the Cardinals' desertion of Urban VI was the extraordinary behaviour of the Pope after his election, when he became so violent and insulting in his manner as to raise doubts of his sanity. Any such feeling, however, could have no effect on the actual validity of his election.

of the rebels was that they had renewed their election of the Archbishop of Bari after the rioting had died down in Rome and when they could not be said to have been under any kind of pressure.

In France, Charles V had given his support to the Cardinals - all his interest prompted him to support a Pope resident at Avignon, where Robert of Geneva was to occupy the magnificent palace that had been the home of his predecessors during the "Babylonish Captivity". The University of Paris and the clergy and faithful were not so sure of their position. The University had in April 1378 acknowledged Urban by sending him its rotulus, or list of people whom it nominated to benefices etc., and in November, after Clement's election had been announced, and when a Council at Bois-de-Vincennes advised Charles V to support Clement, the Rector of the University asked for time in which the University might consider the matter. After some deliberation the nations of England and Picardy said they would remain neutral and await events, while the other two still hesitated. Clement sent the energetic Jean de Cros as his legate to the court of Charles V, with powers on the one hand to grant indulgences to all those who would support Clement, and on the other to deprive, or if necessary imprison those who persisted in remaining his obstinate enemies. Jean de Crès

went so far as to swear that he had certain knowledge that Urban had been elected by the Cardinals only under fear of death, while Clement's election had been untroubled and almost unanimous.¹ The University still hesitated, however, and in January 1379 some were thinking that the best way would be for the two popes to resign simultaneously, - a plan which was subsequently striven for in vain.

Charles V set himself to bring the University in to the obedience of Clement. He succeeded so well that on May 22nd 1379 the University produced a declaration in favour of Clement,² to which the Faculties of Theology, Law and Medicine, and two of the nations of the Faculty of Arts subscribed. Only the English and the Picards remained neutral as before. On May 24th the French nation sent its rotulus to Clement by the hand of Pierre d'Ailly,³ who was at that time one of the most promising students in the University, and was about to take his doctorate.⁴ They notified the King of their decision on May 26th.

1. See the rubrics of the Bull dated from Fondi December 13th 1378 by Clement VII, printed by M.Valois in "La France et le grand schisme de l'Occident" vol.I, p.129.

2. Bulaeus IV, p.566; also Denifle, Chartularium Universitatis Parisiensis, vol.III no.1624.

3. Natio Gallicana et plura supposita facultatis medicinae rotulum communem ad Clementem VII per Petrum de Alliaco, nuntium suum, mittunt. Denifle, Chart.Univ. Paris.II, no 1622.

4. See supra p.4.

Though France declared for Clement by the end of 1379, other nations were equally sure that Urban's claim was the rightful one. Various methods of ending the schism were discussed, among others the convocation of a general council. This means, however, presented many difficulties. Who was to summon such a council? Urbanists would not attend a council summoned by Clement, or recognise its authority, nor would Clement's supporters pay any more attention to an Urbanist council. If any other person or college than the Pope summoned the council its authority might always be open to question as that of an irregularly summoned body. Where should it meet, - within the French sphere of influence, or not? Finally, how could the two contestants be got to consent to its convocation? Neither of them would do more than give useless protestations and take half-hearted measures which they themselves took care should be fruitless. In any case, it was asked, could a general council decide so weighty a question as that of the Schism, and was not the bare suggestion an insult to the true Pope and Cardinals?

In May or June 1379 a German, Henry of Langenstein, produced at Paris his "Epistola pacis". This long treatise takes the form of a dialogue between an Urbanist and a Clementine. The author seems to resent what he terms the intrusion of

Charles V into spiritual affairs. The Urbanist is made to propose a general council and defend it against all sorts of objections raised by his opponenⁿet; an arbitration committee representing Urbanists, Clementines and neutrals is also¹ proposed.

The idea of a general council was first worked out systematically in the "Epistola concordiae" of Conrad of Gelnhausen.² It is dedicated to Charles V and urges upon him his duty of healing the Schism if he can.³ Here Conrad defines a general council,⁴ and having quoted certain objections to the use of such an expedient, he sets them aside, as he says, "cum omni humilitate".⁵ This work may have inspired the "Consilium pacis" of Henry of Langenstein, which appeared in the following year, 1381, and which is very similar to it.

Charles V himself finally came to the conclusion that a general council was perhaps the best way out of the difficulty.⁶ In a speech made on his deathbed to an assembly

-
1. See Valois, "La France et le grand schisme de l'Occident" - Vol. I, p.324.
 2. Martène et Durand, Thesaurus novus anecdotorum, II, 1200-1226.
 3. Ibid., 1225-1226.
 4. Concilium generale est multarum vel plurium personarum rite convocatarum repraesentantium vel gerentium vicem diversorum statuum, ordinum et sexum, et personarum totius Christianitatis venire aut mittere valentium aut potentium, ad tractandum de bono communi universalis ecclesiae unum locum communem et idoneum conventio seu congregatio - Ibid., 1217-1218.
 5. Cap. IV, Ibid. 1218-1225.
 6. September 6th 1380.

of notables gathered in his room, he explained his past policy; he said he had acted always in the cause of what he believed to be the right, that he had believed the statements of the Cardinals concerning the invalidity of the election of Urban, and that he firmly believed that Clement was the rightful pastor of the Church. He said that if he had erred, it was because he had been deceived, and that it was always his intent to act in accordance with the decision of the Universal Church. On this point he was ready to obey a general council or any other competent authority. The authenticity of the gist of this speech is indisputable, as it rests on the account drawn up by the King's notary, Jean Tabari, who had been commanded¹ to attend for the purpose. The way of a general council was steadily gaining favour.

About the year 1381 there began to appear a whole popular literature on the subject of the Schism, nearly all of which favoured the way of a general council. M. Valois gives an account of this literature, which, he says, is as yet imperfectly known.² One writer appeals to Charles VI to have the matter investigated by those who are best fitted for

1. Valois, op.cit. vol.1, pp.326-328.

2. Ibid. vol.1, 349-356.

such discussion, and to

"Fay disputer as clers, par art de silogisme,

Les matieres touchans ce detestable scisme..."

Clementine and Urbanist alike joined in the battle of words, mostly in verses, and the discussion became furious.

It was in the year 1381 that Pierre d'Ailly joined in the fray. At this period he followed his alma mater wholeheartedly and identified himself with the action of the University of which he was one of the most distinguished sons. On May 20th the University of Paris proposed the summoning of a general council in a discussion before the Council of the King and the Duke of Anjou. The Monk of St Denis says that it was through Jean Rousse that the University spoke, but d'Ailly claims to have been the first to advocate such a course openly.¹ Whether his claim is justifiable or not, it is undisputed that in the same year he produced his "Epistola² Diaboli Leviathan". In this tract the Devil is represented as exulting in the havoc he has made in Christendom by means

-
1. The text of his speech is lost; we only know of its tenor from what he himself says in his *Apologia Concilii Pisani*. M.Valois doubts that d'Ailly's account is correct.op.cit.I,339 to 341.
 2. Published by Tschackert, Peter von Ailli, appendix pp.15-21

of the Schism, and as fearing only "those frogs, that are not content in their swamps, but croak unceasingly from the depths of the mud, 'A general council, a general council!'"¹ These, says Leviathan, must be silenced, for they have hit upon the one way in which the Schism and the reign of chaos could be ended together.

From 1380 to 1394, the University was pleading for a general council, and it was at some time during those years that d'Ailly produced his "Quaestio in vesperiis, Utrum indoctus in iure divino possit iuste praeesse in Ecclesiae regno". In the course of his discussion, d'Ailly considers whether the Pope can be justified in continuing to assert his authority though all Christendom is scandalised thereby. He considers also whether in the case of the present Schism, the holder of the papacy should retain his position, or whether he is bound to end the Schism at all costs to himself. He refers casually to the way of cession, which, he says, "seems to be absurd to many people",² and announces his intention of summarising the means of ending the Schism which have been proposed by others.

-
1. O utinam essent ranae suis contentae paludibus! Sed iam non sunt contentae; quin imo de coeno suo rauca voce clamare non desinunt: generale concilium, generale concilium! - Tschackert, op.cit.appendix,17.
 2. ...quod plerisque videtur absurdum. Op.Gers.I,col.647.

Next, without deciding in favour of any of these, he will put forward certain arguments which have been used to support them, and finally he will give his own answer to the question, - which, incidentally, he never does with any distinctness.

There have been, he says, two possible methods ; one, the *via rigoris*, is that advocated by those who say that the schismatics are to be met with excommunication and the force of arms; the other, the *via amoris*, includes three expedients, firstly the use of a general council, secondly the use of a compromise, i.e. the arbitration by a particular council chosen from representatives of the two obediences equally, and thirdly the resignation of either or of both of the Popes and the election of a new Pontiff. Hence the question of cession - ought one in the position of "Dominus noster Clemens" to resign?

D'Ailly says that it is not for one such as he is to decide which shall be most expedient. He will content himself with putting forward the various arguments and will leave further inquiry to others. Experience will provide a solution, if it has not already done so, he says.

1. Quae autem istarum viarum sit conventior non ad me, sed ad maiores pertinet definire. Op.Gers.I,col.657.

Four arguments for the *via rigoris* follow. Firstly, an offending member must be cut off from the Church; secondly, to save the faithful from ruin, heretics who scandalise the Church should be made to share the fate of Dathan and Abiron; thirdly, just as a sick sheep is segregated lest the contagion spread to the flock, so should the diseased members be separated from the Church; finally, William of Paris has refuted the heresy that all should be spared in hopes of their final reformation, which leads to the conclusion that if any ought to perish, it is the heretics and schismatics, who endanger alike the head and the body of the Church.

It is obvious that d'Ailly shares the opinion of the supporters of the *via amoris*. The other way, he says, brings the danger of worse scandal, greater obduracy and the unjust affliction of the innocent. Care must be taken lest the wheat be rooted up with the tares; and violent action leads to errors and excesses, and they who appeal to the sword shall perish by the sword. He justifies his view by an appeal to history, which offers examples of obduracy increased by violence, not softened. Then, too, in the strife between the unjust and the just, many of the latter will be slain, and many will fall also whose ignorance should exonerate them. Wholesale excommunication

has the same effect as slaughter, and St Augustine is quoted as forbidding the excommunication of Princes and entire peoples. The excommunication of Princes causes war, discord and rebellion, and must be avoided. D'Ailly decides that excommunication should never be used against any but the contumacious and those not prepared to obey the Church;¹ and not all the opposition party can be thus described. Contumacy arises only when a man fully informed as to the truth refuses to follow it, and in the present case the members of the opposition claim that they have not been fully informed - a dangerous line of argument, be it noted, since it was easy enough to claim that one had not been fully informed of the truth, so long as the information offered did not tally with one's own preconceived ideas.

D'Ailly continues his plea for moderation on the ground of the uncertainty of the case. Amputation, he says, is a desperate remedy, to be resorted to only in the last extremity; God has reserved to Himself the punishment of secret sins, and His Will must be ascertained by the prayers of the faithful and by the reform of their lives, before so tremendous a punishment is visited on those, who, after all, cannot be said

1. This idea is typical of d'Ailly's attitude at the Council of Paris and of various tracts written by him later. Like all his less vindictive contemporaries, he was always ready to admit of right on the other side.

definitely to be in the wrong. The greater part of the opposition is probably in a state of grace, and so must not be slain or excommunicated.

He now discusses the first means put forward by the supporters of the *via amoris*. For the arbitration by a general council it has been argued by some that since a council, like the Church it represents, is guided by the Spirit, it is infallible, and is thus competent to end the Schism.¹ He quotes the papal decretals and the Scriptures to support the infallibility of general councils. He also quotes arguments to prove that in matters of faith such as the present Schism the Pope is definitely inferior in authority to the general council. There is even precedent for the deposition of one Pope in favour of another, in the case of Damasus and Ursinus.² D'Ailly refers the reader for further discussion on this point to more specialised tracts written by learned men on the subject, and proceeds to what seems to have been his own view, though he has previously disclaimed all intention of settling the matter. He seems to think that the Schism can best be ended by a compromise,³ or the decision of some sort of committee *ad hoc*. He gives

1. D'Ailly himself regarded the Council as potentially fallible, and merely advocated a pious belief in its inspiration and infallibility when inspired. *Op.Gers.II,col.958*.

2. *Op.Gers.I,col.661*.

3. ...*compromissi, seu particularis Concilii arbitriam Ordinationem*. *Ibid*.

his reasons for this opinion; the jurists all say that a general council is not to be summoned without the authority of the Pope; the schismatics would not obey the summons of the true Pope, and hence the expedient of a general council is useless. Rather should a particular council be summoned by common consent, - the more so, says the cautious author, since were a general council summoned by common consent the schismatic bishops would outnumber those of the "pars vera". The true Pope would do better to entrust his rights to a council where, by a compromise, both sides would be equally represented. Even though, as some say, a general council may be infallible in matters of faith, it can err in fact, and may do so in the present case.

The way of compromise, he decides would be quicker, safer and more simple than that of a general council, and the decrees of the committee could either be invested with the authority of those of a general council by common consent, or they could be confirmed later by a general council, as soon as possible after the end of the Schism. He quotes the precedent of the Council of Chalcedon, where a special committee of ten from each side was chosen while the rest of the Council departed, leaving the work to be completed by this elected

¹
committee. He also points out that although there have been twenty two schisms since the time of Constantine, in no case do we read that the matter was entrusted to a general council, but it was decided by a particular council of the obedience of the true Pope. Here d'Ailly, while recognising that the Schism of 1378 was worse than any that had gone before, overlooks the fact that it was also different in that there was no telling which was the Pope and which the anti-pope, whereas in all previous cases there never had been any difficulty of the sort. He concludes that anyone who refuses the way of compromise must be gravely suspect of being a schismatic.

The tract ends with a quotation from one Petrus de Palude concerning the means of dealing with a Pope who is in one way or another destructive of the wellbeing of the Church. Either he is to be called to account by learned and competent men, as Peter was by Paul, or the Church Universal is to unite in prayer for its deliverance from him, or the Cardinals are to summon a general council on their own authority to meet the situation.

1. Having begun the argument for compromise in the first person, "Sed contra hoc viam praedictam obliicio, argumentando pro secunda via"etc., d'Ailly returns at this point to the third person, "pro hoc inducunt quod simile legitur factum esse in Concilio Chalcedonensi," and gives the rest of the argument in this form throughout the tract to the end, thus leaving a possible doubt as to his real opinion. See Op.Gers.I,col.661

The concluding paragraphs of the tract considerably confuse the argument of the rest, and seem to point to the fact that some part is missing.¹ From what he has said, d'Ailly concludes, it should be obvious when a general council should be summoned; for himself, he passes over the first two ways briefly, since the third is more relevant to the situation.² The three ways he is speaking of here are first, the general council, secondly the way of compromise, and thirdly the cession of one or both Popes.³ The third way to which he refers, then, is the way of cession, which he has said seems absurd to many, and which he does not seem to favour. We are thus left rather in the dark as to his real preference; he has made out the best case for a compromise, but this reference to the third way as most relevant to the situation suggests his preference for the way of cession. In this tract, however, he has not given the pros and cons of the way of cession at all; it is possible that such a discussion was added at a later date than the rest of the tract, but was finally withdrawn out of caution and suppressed by the author himself, if it has not been lost.

1. See on this point Tschackert, Peter von Ailli, p.372.

2. Et breviter transeo de praedictis duabus viis quia tertia magis est ad propositum quaestionis Op.Gers. I,col.662.

3 See supra p.26.

The final paragraph refers the reader for further discussion of the question to certain tracts of d'Ailly's, written at various times, notably at the Council of Pisa and at various Councils of Paris.¹ This must, of course, have been added after the year 1409, and probably before the Council of Constance met in 1414.

An examination of the date at which the tract was probably written makes it possible to offer some suggestions as to what d'Ailly's real opinion was at the time. That date can be determined only by internal evidence; M. Salembier dates the tract as somewhere between 1372 and 1395.² That it is subsequent to 1378 is shown by the references to "the present Schism".³ The reference to "Dominus noster Clemens" dates it before 1394, as Clement died in that year. Tschackert, in his "Peter von Ailli", adduces proofs that while the tract is shown, by its immaturity of style and its modestly phrased deference to the work of greater men than the author, to belong to d'Ailly's early work, it quite definitely follows the "De legitimo dominio"⁴ and is probably later than 1382. It may also be noted that part of the argument, like that of the "De legitimo dominio",

1. Op.Gers. I, col 662.

2. Petrus de Alliaco, introduction p.xv.

3. Op.Gers. I, cols.647,656,657 etc.

4. Peter von Ailli, pp.371-372.

is a denial of the theory of dominion by grace, and that in 1382 Wycliffe addressed to the English Parliament a number of propositions, among which he maintained that no man could be a bishop or prelate, or hold any dominion, while he was in a state of mortal sin.¹ D'Ailly may conceivably have been prompted to combat this heresy afresh soon after its public restatement in that year.

In 1381, d'Ailly had been advocating a general council:² by 1394 he was advocating cession. It is possible that at some time between those dates he may have thought that the best way was that of compromise. If he did think so, he did not remain of that opinion for long, and in none of his other works does he prefer the way of compromise.

In 1387, Clement VII promised to summon a general council. The promise was a vain one which he never intended to keep, but in giving it he gained a certain amount of prestige and support by assuming a virtue if he had it not. It soon became obvious, however, that a general council was almost out of the question in the circumstances, and general opinion began to lean towards the way of cession, the proposal that both Popes should resign and thus make way for the election

1. Nullum esse Episcopum, Prelatum, aut Dominum, dum est in peccato mortali, etc. Bulaeus, Hist.Univ.Paris. IV, 592-593.

University to interfere further in the matter. According to
of a new head of Christendom whose rights should be indisputable.

By 1393 Henry of Langenstein was advocating the
way of cession, in his "Carmen pro pace"; at about the same
time Egidius de Campis produced five "conclusiones" on behalf
of the University of Paris in the presence of the King. The
fifth declares that if either Pope refuses to consider the way
of cession, he is to be removed ¹ - a foreshadowing of the attitude
that produced the retraction of obedience in 1398.

In January 1394 a vote was taken on the subject in
the University, and the result showed a majority for cession.
In June of the same year, a letter was drawn up on behalf of
the University by Pierre d'Ailly, Egidius de Campis and Nicholas
Clemangiis and presented to the King. ² This describes the three
ways in order of preference - first the way of cession, as the
most convenient and efficient, secondly the use of a compromise
by representatives of both sides, and only thirdly a general
council. They apparently expressed themselves too enthusiasti-
cally for the royal taste, for the only reply the University
received was the intimation that the King did not wish the

-
1. 5a conclusio. Quicumque horum amborum colectorum non
condescendens unioni (per viam cessionis) supposito quod in
papatu ius habeat, penitus exterminandus est, et a papatu
removendus. Denifle, Chartularium Universitatis Paris. III,
 2. Bulaeus Hist. Univ. Paris. IV, pp. 687-696. (no. 1666.)

1

University to interfere further in the matter. According to the Monk of St Denis, it was due to the Cardinal de Luna, "blandiloqui ceterisque faventibus pape mediantibus et virus pestiferum adulacionis auribus sugerentibus" that such a reply was sent. On receiving this snub, the University had resort to its time-honoured means of protest, and suspended its lectures.

To add to the spirit of rebellion, great discontent was felt at the fiscal policy of Clement VII, and the various taxes imposed by him upon the Church were very much resented: d'Ailly repeatedly complains of these impositions in his works on reform and in his discussion of the rights of the papacy, though he upholds the papal right of taxation within limits and for definite purposes. Clement, conscious of the danger to himself of this growing resentment, sent for certain influential members of the University, d'Ailly among them, to discuss the situation with him - he needed their advice, he said. Those whom he summoned, however, refused to go, and the University sent the Pope a letter so uncompromising as to make him realise the hopelessness of his position. He flew

1. Bulaeus, Hist. Univ. Paris., IV, p. 696.

2. Chronici Karoli VI, lib.

3. See infra, pp. for a discussion of d'Ailly's account of finance.

1. Chronici Karoli VI, lib. IV, cap. 1.

into a violent passion on reading the letter and expressed himself so forcibly that the discovery that the messenger, who had been kneeling at his feet during the outburst, understood Latin, caused him some uneasiness. He seemed to be wavering in his determination to cling to his office, when on September 16th 1394 he died quite suddenly.

Here, apparently, was an opportunity to end the Schism. The University at once proposed that the Cardinals should delay the opening of the conclave until the King should have decided upon some method of procedure; that the way of cession should be discussed by an assembly of notables; that the King should communicate with Rome and try to reach a settlement, and that prayers should be offered up for the consummation of peace. The King consented, and the University joyfully resumed its suspended lectures, while Charles VI sent a deputation to Avignon. By the time his letter arrived, however, the Cardinals were in conclave, and as they agreed to leave it unopened till the election had taken place, its purpose was frustrated. Peter de Luna became Benedict XIII on September 28th 1394. Each Cardinal on entering the conclave had taken an oath that should he be elected he would use all possible means to the end of peace, even to abdicating if necessary; Benedict had taken the

1. Chronici Karoli VI, lib. XV, cap. 5.

oath with the rest, and subsequently he frequently protested that he would lay aside his office with no more reluctance than he laid aside his vestments, but he was to cling to his office obstinately in the face of the opposition of all Christendom till his death in 1422.

An embassy was sent to the new Pope on the announcement in Paris of his election, and Pierre d'Ailly was again chosen to represent his countrymen. He was now one of the most important men in France. He was the King's almoner, and Treasurer of the Sainte Chapelle, and he had been Chancellor of the University of Paris for five years.¹ Thus he represented both the University and the court by reason of his office, and it was in this capacity that he went on the important diplomatic mission of October 1394. He failed, however, to get anything out of Benedict but mere temporisations, and he returned from his fruitless mission. In February 1395 at an assembly of the clergy held at the King's mansion of St Pol, d'Ailly again advocated cession. He was supported by the opinion of eighty-seven out of the hundred and four prelates present. The

1. Reverendo ac in Christo dilectissimo domino et sacre theologie magistro precellenti P(etro) de Elyaco (sic) Parisiensis studii cancellario ac Karoli illustrissimi regis Francie elemosinario etc... Denifle, Chart.Univ.Paris.III,no.1695.

assembly drew up instructions for the Dukes of Berri, Burgundy and Orleans and the magnificent embassy the King was preparing to send to Avignon at the request of Benedict. In these instructions they expressed their opinion that violence was to be avoided; they pointed out that if Boniface, the Roman Pope, who had succeeded Urban VI in 1389, resigned alone, his followers would not necessarily come over to the obedience of Benedict, any more than France would obey Boniface in the event of Benedict's resignation; they gave their reasons for believing that the way of cession was that which should be recommended by the royal envoys to the Pope, though "*per modum consilii, non determinacionis*". Should the Pope refuse the way of cession, the envoys were to inform him, respectfully but firmly, that as no better way had been put before the King, France intended to strive for cession by all means in his power. In the event of the Pope's consenting to resign, the fact was to be communicated by the Princes to the Princes of Boniface's obedience, before the information was given to Boniface himself, "*quoniam, si preveniretur, malignari posset.*"¹ In the case of Boniface's refusal to resign in these circumstances, the Princes of his obedience were to be advised to compel him, by the withdrawal

1. Chron.Kar.VI,lib.xv,cap.12.

of obedience, or other lawful means, to yield.

In May 1395 the deputation reached Avignon. Benedict at once betrayed his attitude by his extreme unwillingness to let them have a copy of the oath he had taken in conclave before his election. He made counter proposals of his own, which included a plan for a meeting between himself and Boniface IX at a place under French influence; he could hardly have been ignorant of the fact that Boniface would never consent to a meeting in any such place. In the face of the embassy's repeated demands for cession, the Pope continued to temporise and bring forward what he called more convenient ways of ending the Schism, till his evasions disgusted even his own Cardinals, who began negotiations with the members of the embassy.

No conclusion was reached, and during the years 1395 and 1396 embassies were sent to Germany and England, who refused to waver in their allegiance to Boniface IX, to Wenceslas, King of the Romans, to Hungary, Treves, Cologne, Austria and Bavaria, who all approved of the idea of cession, and to Spain, whose answer was less definite, but was encouraging. In 1397, embassies were sent to Benedict by France, Castile and England, but met with nothing more satisfactory than renewed proposals of a compromise.

In November 1396, Pierre d'Ailly was made Bishop of

Cambrai, on the death of André de Luxembourg. In spite of the determined opposition of the Duke of Burgundy, who objected to the appointment, he took possession and swore fealty to his metropolitan, the Archbishop of Rheims and to Wenceslas, in his capacity as Count of Cambrai. In April 1398 Wenceslas, who had come to an agreement with Charles VI in the previous month, asked d'Ailly to go to Benedict and again plead with him to give his resignation. Benedict refused outright, - he said he feared that for him to do anything of the sort would amount to mortal sin. D'Ailly returned to Wenceslas with the account of his failure, and Charles VI determined to take action.

In May 1398 a Council at Paris decided to follow the advice of the Universities of Paris, Angers, Montpellier and Orleans and withdraw the obedience of France from Benedict. The prelates were of the same mind, d'Ailly among them; the King supported their decision, and the Duke of Berri went so far as to threaten any who should protest with condign material punishments.¹ Papal collations were declared null and the confirmation of appointments was placed in the hands of the bishops. The revolt was complete, and for the next five years France obeyed neither Pope. By September 1st 1398 the Pope had been

1. Chron.Kar.VI,lib.xix cap.2.

informed of the decision of the Gallican Church. Pierre d'Ailly¹ was again sent to him to urge his resignation. Charles VI tried the "way of action" and sent Boucicault to besiege the Pope in his own palace at Avignon.² Benedict's only response was a military one. He conducted his side of the siege with marked ability.

This use of force by the secular arm was to make the less embittered members of the Church, d'Ailly among them, raise grave doubts as to the legality of France's action in first refusing to obey and then declaring war against the Pope whom she had recognised. Gerson and Clemanges demanded the return to obedience, and by 1399 opinion in Paris was modifying considerably, though an assembly of the clergy granted a subsidy to the King and the prelates abolished all debts to the Apostolic Chamber as well as all expectancies from Benedict or Clement, and though the University was continually making fresh demands for its partisans. Ultimately Benedict promised to resign if Boniface did so or was deposed or died, and he pledged himself to attend any meeting that should take place for the discussion of reform; the siege of the papal palace

-
1. Bulaeus, Hist. Univ. Paris. IV, p. 863.
 2. The siege was one of the palace rather than of the city, as the citizens of Avignon supported the King, not the Pope, though they returned to the obedience of the latter easily enough after his escape in 1403.

was thereupon tempered to a blockade, while in 1400 negotiations took place between the King and the Pope.

In the same year the University again protested and suspended its lectures, this time because it considered its candidates were not getting enough preferment from the bishops in whose hands the appointments lay. Whatever the reason may have been, the policy of disobedience was losing ground, - the Duke of Orleans, always a partisan of Benedict XIII, quarrelled with the King over the imprisonment of the Pope. France would indeed have been in an awkward position if a chance arrow had killed that intrepid warrior.

On March 11th 1403 Benedict made a bid for freedom. Assisted by a captain in the pay of Orleans, he escaped from Avignon in disguise, and subsequently announced his escape to the King, his Council and the University as a fact at which they were to rejoice. His own city of Avignon returned to his obedience without any trouble, and Paris was inclined to do the same.

It was at about this date that Pierre d'Ailly produced his "De materia Concilii generalis". The tract is in three parts, the first discussing the expediency of summoning a general council of Benedict's obedience only, and describing the usual form of

general councils, the second discussing whether the restitution of obedience should take place before the meeting of a council, and the third concerning reform. Only part three has been published, and that only in the slightly revised form in which d'Ailly presented it to the Council of Constance more than ten years later; the rest remains in manuscript in the Bibliotheque Nationale in Paris. Some of the first part, or a tract very closely resembling it, has been printed in a slightly different form and ascribed to Gerson by Elies Dupin, under the title of "De Concilio Generali unius obedientiae", and as d'Ailly himself acknowledges his debt to Gerson, the "De Concilio Generali unius obedientiae" was probably the germ of d'Ailly's "De materia Concilii generalis".

D'Ailly says he wishes all he is going to say to be understood as not in any way dogmatic, but merely argumentative. He begins with the difficulties in the way of a general council of one obedience only. It is not expedient, he considers,

1. Bibl. Nat. no. 1480, ff. 83-122; no. 3124, ff. 27 et seq.; no. 1571.
2. Op. Gers. II, cols. 24-32. In his "Apologia Concilii Pisani" d'Ailly refers to the tract "quem super materia generalis concilii dudum composui. In cuius prima parte 7 considerationes satis utiles ex scriptis praememorati Johannis cancellarii Parisiensis recepi, aliqua iis non inutiliter superaddens; in eadem etc." Tschackert, Peter von Ailli, appendix p. 39.
3. ...nihil assertive aut determinative, sed solum recitative et disputative. MS. Bibl. Nat. no. 1571, f. 1.

to summon such a council to determine matters of faith, - the whole Church should be consulted on such matters; what one part approves the other may not, especially in matters concerning appeals from the Pope, the question of cession and the retraction of obedience, etc. It is likewise not competent to deal with reform, which cannot be compassed without the abolition of a multitude of statutes concerning excommunications and other traditions now obsolete.¹ Any such legislation would need the consent of the whole Church. For the discussion of disciplinary reform only, provincial councils would suffice - such discussion would not be worth the labour of congregating a general council of the whole obedience. He then discusses the situation more particularly. It is not expedient, he says, to summon such a council to deal with the "crimes" of Benedict, to whom some impute heresy, schism and perjury. There is no unanimity of opinion even within Benedict's obedience, and any attempt on the part of a body containing such diversity of opinion to settle the matter would, says d'Ailly, probably be the cause of fresh dissension.² He also points out that if the

1. ...excommunicationibus et ceteris traditionibus nimis multiplicatis, quae nec observantur nec observari possunt rationaliter ubique propter varietatem morum et temporum. MS 1571, f.1

2. MS.1571 f.5.

Pope is to be put as it were on trial, it is difficult to see how the question of the presidency of the Council could be settled; also, in the present state of affairs, it is almost impossible to find a place which would be suitable for Benedict, "cum defineatur¹ inclusus". Finally some would not obey him, and there would be a deadlock.

It does not seem expedient to d'Ailly that such a council should be called to restore obedience to Benedict "in spiritualibus". In any case it is rather a matter for France alone, since all the other nations in his obedience either never withdrew their obedience at all, or they have since restored it. In any case, too, the withdrawal of obedience is hardly a matter for discussion: it was conditionally, till Benedict should yield, and if it is found to be useless, or if Benedict proves amenable, it must cease.

Neither should a council of one obedience be used to negotiate the restoration of obedience "in administrationem beneficiorum etc.," which, though annexed to spiritual things, must yet be called temporalities. These matters belong to a Universal Council, though d'Ailly does not deny that much useful discussion of projected reforms could take place in a

1. This phrase seems to date the tract definitely before March 11th 1403, when Benedict escaped from Avignon. MS 1571, f.5

council of one obedience. He discusses the question of the Church, its officers and temporalities at length, but all that he says belongs rather to his general conception of the Church than to the particular phenomenon of the Schism, though here, as throughout his career, it was the disorganisation of the Church as it was in his time that led him to describe the organisation of the Church as he considered it should be.

It is futile, he continues, for such a council to try to find new ways of ending the Schism: the best possible ways have been discussed, and it remains only to achieve some sort of agreement as to which should be adopted. Nor should the council meet in any but the traditional forms, lest its orthodoxy should be impeached. He concludes that in no case should a general council of one obedience only be summoned, except to insure free deliberation and concord between the head and the members of the Church.¹

In part two, d'Ailly treats of the question as to whether the obedience withdrawn from the Pope should be restored to him before the convening of a council. He gives the opinion of both sides, and says he will leave the learned to choose and dogmatise.² The first opinion he quotes is that obedience

1. De Materia MS.1571, f.15.

2. ...Propono...varias opiniones cum aliquibus earum motivis ad maiorem declarationem materia recitare, ut quid melius eligendum sit doctores instruant. Ibid.f.31.

should be completely restored , on the grounds that no man can be judged till anything of which he has been despoiled is restored to him. If this rule is to be observed with regard to laymen and to bishops, how much more should it be observed with regard to the Pope.¹ After giving many examples and illustrations at some length, he passes on to the next point. The second opinion, he says, considers that the restitution of obedience should not take place at all, since in certain cases an accused man should not have his possessions restored before judgment. These cases are those of "delapidatio," serious or notorious crime, contumacy, scandal, cruelty and breach of faith. It is said that Benedict is guilty on all these counts, - he is notoriously unfitted for the papacy, and the Church has suffered more than she has gained by his ministrations; his attitude to the Schism amounts to a serious crime; he is contumacious in ignoring the counsel of his own cardinals and of the Princes, and thus gives rise to scandal; it is probable that if restitution of obedience were made he would behave cruelly and revengefully towards his enemies; and he is guilty of the breach of the oath he took in conclave that he would, if elected, use all means, including cession, to

1. De materia MS.1571 f.37.

the end of the peace of the Church.

The third opinion lies between the two extremes. Probably it was d'Ailly's own opinion. He draws a distinction between the essential rights of the Pope as the head of the Universal Church and so-called rights which are in reality usurpations. Such usurpations include reservations to benefices and other "rights" which St Peter never claimed. In this respect, the retraction of obedience is to stand; with regard to the essential honours due to the Pope, obedience is to be restored. D'Ailly is practically proposing that advantage should be taken of the peculiar situation to force the reform of the papacy in certain respects. A great deal of part two¹ is taken up with arguments to support this view. Among others, he gives the fact that the withdrawal of obedience was conditional only until Benedict should yield; that Benedict, "ut dictum est", has promised cession,² and that therefore the retraction of obedience should be withdrawn. He also points out that the retraction of obedience has magnified the scandal of the position rather than decreased it, and thus it should be given up. A detailed defence of Benedict against the accusations made against him completes the argument. It would

1. De materia MS.1571, ff.48-55. *infra* part .1.

2. See *supra* p.42. *infra* cap.8.

seem, too, says d'Ailly, that not only should obedience be restored with regard to these essential rights of the papacy, but also it ought never to have been withdrawn, since, according to some, the Pope cannot be judged by his subjects. This statement raises a whole lot of questions concerning the Pope's position with regard to the Church, and d'Ailly, in answering them, gives a complete account of the relationships between Popes and General Councils, both in ordinary and in extraordinary circumstances, and evolves his theory of the Pope as the minister of the Church Universal.¹

The third part of the tract deals entirely with the question of reforms which the author considers necessary in the Church, and which have no direct bearing on his attitude to the Schism, except insofar as he points out that certain abuses of which he complains have directly contributed to its outbreak.

The opinion which triumphed in 1403 was the second, - for complete restitution. In May 1403 the prelates assembled at Paris and agreed with the Duke of Orleans and the King that obedience should be restored: the articles of the conditions² they agreed upon are given by the Monk of St Denis.

1. De materia MS.1571 and see infra, part II.

2. Chron.Kar.VI, lib.xxiv, cap.6.

The Pope was to resign if his opponent resigned, was deposed or died. Benedict was to convoke a general council of his obedience within a year to discuss union, reform, the liberties of the Church and finance. The nobles and the Duke of Orleans begged that clerical taxation might be reduced, and that Benedict would confirm the appointments that had been made during the withdrawal of obedience. On May 30th, Pierre d'Ailly announced the restitution of obedience on these terms in Notre Dame at Paris; it may be that the conditions attached to the restitution show his influence, though his acknowledgment of the limitations of a general council of one obedience only must be borne in mind.

The University gave its adherence to the restitution of obedience and d'Ailly and the Archbishop of Aix were sent in September 1403 to demand Benedict's fulfilment of the conditions.¹ Benedict still temporised and gave vague promises only.

In October 1404 Boniface IX died at Rome, and was immediately succeeded by Innocent VII; the Great Schism seemed as though it was going to be everlasting. Innocent's rule was politically stormy, and Benedict, realising his opponent's

1. Bulaeus, Hist. Univ. Paris. vol. V, p. 71.

difficulties, began to agitate for a meeting between himself and Innocent, which he must have seen was almost impossible. He asked for a safe-conduct, which was refused on the grounds that he was not sincere in asking it, and he convoked a general council of his own obedience for 1407, to meet at Marseilles.

Further than this, he did not fulfil the conditions of the restitution of obedience that had been made; his rival had died, and he had not resigned, and he was not at all ready to ratify the appointments made in France by the bishops. By 1406, opinion in France, especially in the University of Paris, was getting unfavourable to Benedict once more. The Cardinal of Chalant, whom he sent as his legate to the court of France, was received with marked coldness, which became almost hostility when he attacked the University of Paris. This attack gave the University a chance to demand a hearing. Jean Petit, a Norman who was more noted for the hotness of his temper and the forcefulness of his language than for diplomacy, was commissioned to express before the Council the view of the University, which was that the withdrawal of obedience decreed in July 1398 was still in force, Benedict having proved himself an obstinate schismatic. In his actual

speech, Jean Petit did not go quite so far as this, but he advocated the withdrawal of the obedience afresh, and demanded the condemnation of a letter written by the University of Toulouse in favour of Benedict.

It was Jean Jouvenal des Ursins, the King's Advocate, who summed up the legal situation in conclusion. The memorial of Toulouse was to be burned on the grounds that it entailed lese-majesty: the King was to assert his right to oppose the financial demands of the Pope; and since Benedict had not kept faith, Charles need not fulfil his undertakings and was therefore at liberty to withdraw the obedience which had been restored in May 1403 conditionally only.¹

Finally a Council of the French Church was invited to discuss the question, and it met in November 1406. The proceedings resolved themselves into a debate between the University, which had identified itself with the withdrawal of obedience, and the advocates of Benedict. It was at this time that d'Ailly began to dissociate himself from the policy of the University in favour of the Pope. He apparently considered that Benedict was not guilty of the crimes of heresy and schism imputed to him by the University, and that in any case the matter was now so serious as to necessitate a general council.

1. Bulaeus, Hist.Univ.Paris.vol.V, ppl20-121

The speakers for the University were Pierre-aux-Boeufs, Jean Petit, Simon Cramaud, the Patriarch of Alexandria, Pierre le Roy, Abbot of Mont St Michel, and Pierre Placoul. For Benedict there were Guillaume Filastre, Ameilh du Breuil, Archbishop of Tours and Pierre d'Ailly. The advocates of the University claimed that both Popes were schismatics and suspect of heresy, - most especially was Jean Petit noted for the virulency of his attack.¹ Simon Cramaud, though saner of expression, was no less uncompromising in meaning. He pointed out that the papal dignity was created for the benefit of the Church, not of the Pope, that the Pope is the guardian, not the possessor of ecclesiastical property, and that appointments made by either of the Popes were invalid, as the work of schismatics, and that their nominees were committing mortal sin in administering or receiving the Sacraments. He said that the good shepherd laid down his life for his sheep rather than lived on them, and drew various analogies extremely unflattering to the Popes. He finally proposed that appeals should no longer go to Rome; the Gallican Church, he said, had its archbishops, - why should appeals go abroad? Nevertheless he concluded by saying that² he did not wish to attack the liberties of the Roman Church.

1. Bourgeois du Chastenot, Histoire du Concile de Constance, Preuves, pp.105-112 and 113-117.

2. Ibid. pp.118-124.

Guillaume Filastre, speaking for Benedict, says that all the world together could not judge the Pope, far less could a Council representing only a fourth or a fifth part of it. He gives his own account of events before and during the withdrawal of obedience, of the restitution and of its effects. He also insists on the superiority of the spiritual power, and quotes Scripture to back up his argument. He is even rash enough to point out that Popes had created Kings and Emperors, even Kings of France, which statement necessitated a humble apology¹ to the injured dignity of the Duke of Berri and the peers. He finally shows that a General Council presents almost insurmountable difficulties, that France, in dissociating herself from the Pope whom she had acknowledged as the true one, is guilty of schism, and that the best means of ending the Schism is to strive to come to an agreement, since that means includes² all the rest.

Pierre d'Ailly now showed himself to be by far the most able partisan of the Pope. He did not hesitate to run counter to the opinion of his beloved University, with whose

1. He was reduced to begging pardon for his outspokenness, and to making the extraordinary statement that the King of France was an exception to the general rule, since he was "une personne moyenne entre spirituelle et temporelle" and drawing what seems rather a blasphemous comparison between the baptism of Saul, Jesus Christ, and Clovis. B. du C., Preuves p.163.

2. Ibid. pp.125-141.

policy he had previously been in sympathy, in the interests
of what he considered to be the truth.¹ He began by deploring
the attitude of the Church of France. "How can we seek union,
who are ourselves disunited?" he says.² In his preliminary
paragraphs he excuses himself, probably realising that what
he has to say will be unpopular, and wishing to be as tactful as
possible. He says that he has a cold, that he is not so ready
as he could wish, that his speech has been but roughly prepared
at very short notice, that he is relying only on his memory and
on the writings of the Doctors, and that he does not claim to
speak authoritatively. He does not wish to run counter to the
opinion of the Church, and, most of all, he has nothing to say
against the way of cession, "que je cuide qu'elle est bonne
et sainte, et que je l'ay toujours approuvee".³ He also protests
his gratitude and love toward the King, the Church and the
University. He deplores the insults that have been hurled at
the Popes and begs the King to put an end to such unseemly
violence.

He quotes six propositions which, he says, he put

-
1. See also supra p.8 for an explanation of his attitude.
 2. B. du Chast., Preuves p.141:150 The sentiment can be compared to the idea of Nicholas Cusanus, who in 1433 was insisting in his "De concordantia Catholica" that the "concordantia" of Christendom was a sine qua non of reform.
 3. B. du C. Preuves p.151

forward in a meeting of the Faculty of Theology recently, and rather than one of the Universal Church, since Benedict is to which he now refers at their request. Certain points were put before the Faculty by the Dean on November 16th for their consideration - firstly, what were the best means of remaining neutral or maintaining the withdrawal of obedience with a quiet conscience till union should be restored? Secondly, how were they to proceed if Benedict remained obstinate; were they to have recourse to a general council of one obedience, a compromise, diplomacy, or a general council proper of the Church Universal? Thirdly, if those who had withdrawn their obedience before refused to do so again, were they to be suspect of schism? D'Ailly quotes his answers; such matters should be referred to solemn discussion by the Faculty of Theology, which is to decide not "pro modo determinationis, sed solum avisamenti". Those who refuse to renew the withdrawal of obedience are not to be treated as schismatics; it seems to him that the way of cession is the best; for purposes of reform the Gallican Church should celebrate a general council; for purposes of disciplinary reform provincial councils should be celebrated yearly. These points he reads first in Latin, and then repeats in French, for the benefit of his august audience, enlarging upon them slightly in the translation. He goes on to advocate the

celebration of a general council of Benedict's obedience, rather than one of the Universal Church; since Benedict is to be accused he must clear himself, and should not be left in the hands of his enemies.¹ The Cardinals demanded a council when obedience was first restored, and since then the need for it has increased: that the Cardinals have ceased to desire it d'Ailly does not believe. Such a council might adopt the way of cession or any other, - d'Ailly says he believes Benedict will resign, but not that the "intrus" will do so, and hence "La voie du Saint Esprit ne doit pas estre repellee, le Conseil General ne doit pas estre repellee." A general council of one obedience will be a preparation for one of both obediences together.² This plea for a general council is d'Ailly's answer to the King and to the propositions laid before the Faculty of Theology.

He passes on to his vindication of Benedict. In an extremely exact and detailed argument he tries to prove that Benedict is neither to be suspect of heresy nor of schism and so that the withdrawal of obedience is not justifiable. He

1. B. du Chast. Preuves p.155. He has changed his mind on this point since 1403. See supra pp.45-46.

2. Ibid. pp.149-163.

disputes the use of the term "heresiarch" as applied to Benedict by Simon Cramaud, saying that matters of such weight should be treated of by a general council only. The true base of his defence of Benedict is his statement that Benedict is willing to summon a general council and to abide by its decision;¹ the Pope and his followers must not be called schismatics as long as they show such willingness to be instructed of the truth. He tries to defend Benedict against the charges of heresy, schism, contumacy etc., his chief argument being Benedict's expressed willingness to hold a council.² His arguments have the virtue of sanity, though they border on the far-fetched, as indeed any arguments in favour of one so obviously to be found wanting as Benedict was had necessarily to be.

What d'Ailly says on this occasion is best understood if taken in conjunction with his ideas expressed in his "De materia Concilii generalis". In both cases he displays a belief in Benedict's good faith which is rather extraordinary in the circumstances, but by 1406 his attitude has changed considerably. In 1403 he says Benedict must not be "tried" by a council of one obedience only;³ in 1406 he says he must.⁴ In 1403 he says

1. B. du Chast. Preuves, p. 159.

2. Ibid. pp. 149-163.

3. De materia MS 1571 f. 5.

4. B. du Chast. Preuves, p. 156. Benedict's position was no longer the same, - he was not "inclusus" in 1406 as he was in 1403.

a great deal that he repeats in 1406, especially with regard to the Pope's right and power to summon a general council even when he himself is under suspicion of heresy, and the illegality of any withdrawal made without the authority of a council,¹ but it may be said, generally speaking, that d'Ailly is more in favour of a general council of Benedict's obedience in 1406 than he was in 1403. In both cases he says that local reform should be dealt with in provincial councils, while a council of one obedience is to be regarded as a preparation for a general council of both obediences together.

D'Ailly had said quite enough to arouse the animus of the University. Jean Petit was deputed to say that the University considered that d'Ailly had attacked her honour, and that she could not overlook the matter. He demanded that the King should call d'Ailly to account for what he had said, which account was to be rendered in the royal presence. D'Ailly's only response was that he was content with that arrangement; he merely begged that no proceedings might be taken against him except in the royal presence.

1. ...Papa, etiam de heresi suspectus vel accusatus, potest Concilium convocare et ibidem interesse....clerici non debent a Papa etiam suspecto de heresi ante diffinitionem Concilii discedere, et quod hoc est scisma facere...De materia MS.1571, f.21. c.p.B.du Chast.Preuves,p.161. C.p.also d'Ailly's final conclusion in 1406 "Ex premissis apparet, quod securius est Regi et Regno predictas materias referre et remittere ad Concilium Generale, quam in ista materia precipitanter definire vel subtractionem facere... B.du Chast.Preuves,p.163.2

The discussion still went on, and extreme statements were made on both sides. Finally, on December 24th, Jean Petit undertook to refute d'Ailly's speech, and to show that a council of one obedience was unnecessary. He attacked the arguments of his opponenⁿts as unsound in law and tending towards treason, and concluded that Benedict was a schismatic and heretic and was not to be obeyed till he had cleared himself before an ecumencial council. To Filastre's argument that France, having acknowledged Benedict, should obey him, he said that in any case France had acknowledged Urban first. He claimed that Benedict had refused to listen to the truth as represented to him by the King and the Church of France, and so could not claim to toleration extended by d'Ailly to the ill-instructed. Certainly it is difficult to see how Benedict could explain away his persistence in perjury. Jean Petit quotes certain rash statements made by the Pope to the effect that he would rather be flayed alive than resign; that he feared to commit a mortal sin in resigning, etc, and shows that even if, as d'Ailly says, Benedict has promised a general council of his obedience, he has never put his promises into effect. He politely, but somewhat maliciously points out that M. de Cambrai, for whose opinion he has all respect, has been in his bishopric

or elsewhere during the past two years or more, and so cannot pretend to know as much about the matter as the University and its apologists;¹ also that at the meeting of the Faculty of Theology to which d'Ailly referred, d'Ailly's opinion received the votes of only twenty-three out of the sixty-nine doctors present. He denies in any case that the question belongs to the Faculty of Theology, since the issue involves many more than the Theologians.² All that d'Ailly can do is to protest again that he intended nothing derogatory to the University, and that in matters of faith the discussion should rest with the Faculty of Theology, at least in the first instance.³

On December 30th Jean Jouvenal des Ursins summed up. He began by saying that he did not wish to exalt the temporal power unduly at the expense of the spiritual, but his speech is definitely "Gallican" in tone. It might have been written by Guillaume de Nogaret or some other apologist of the time of Philippe le Bel, during the struggle between the King and the Pope, Boniface VIII. He describes the two powers, spiritual

-
1. ...il y a bien plus de deux ans, que l'Université en est toute informée de cette matière. Il est bien vrai aussi que M. de Cambray vint de son Evêché, ou je ne sai de quel lieu... B. du Chast., Preuves, p. 228.
 2. Ibid., pp. 222-229.
 3. Ibid., p. 229. He said the same thing a propos of the case of Johannes de Montesano in 1388. See d'Argentré, Coll. Iudic. vol. I, pt. 2, p. 77.

and temporal, each independent in its sphere of action;¹
together with control over the bodies of men, he appropriates
to the secular power the power of summoning meetings of its
subjects, even for spiritual purposes. Hence none but the Pope²
or the Prince can summon a general council. He enlarges further
on the subject of the secular arm as the executive of the Church,
which lacks coercive jurisdiction and so can do very little
without secular assistance.

Then he considers the grievances which the Church of
France and the University have against the Pope; he complains
of abuses such as papal reservations, and the frustration of
elections by the Pope in favour of total strangers. He instances
the case of the Bishop of Nantes who, he says, was despoiled
of his benefice after four years of service, in favour of a
papal nominee who could not even speak the language of his
flock, - and this simply because the appointment had been
made during the withdrawal of obedience; though Jean Jouvenal
does not say so, the case shows that Benedict was not keeping

1. ...bailla (Dieu) au Papae ministère, non mie ordinaire ou
autoritive puissance, mais a la puissance Royale il bailla
sur le corps plenièrre puissance. Par cestes deux puissances
doit estre tout le monde gouverne. B. du Chast., Preuves, p. 230v.
His distinction between "ministère" and "autoritive puissance"
may be compared to d'Ailly's contrast between spiritual
"ministerium" and temporal "dominium" - see infra part 2.
2. B. du Chast., Preuves, p. 230 vo.

to the agreement under which the obedience was restored, as one of the express conditions had been that Benedict should ratify appointments made during the years 1398 and 1403; certainly the demand was made in the form of a petition, but it was nevertheless real.¹ He also says that all clerical taxation should receive the royal consent was a necessary justification; in any case, he says, the Pope has no authority to take temporal goods "et les personnes de quoy le Roy se doit aidier."² All the Church possesses it holds by secular generosity and permission.

He finally demanded the assembly of provincial councils, and some check on appeals to Rome, and said that there was no need to summon any further council for France - the present meeting of clergy and "universitaires" would suffice to advise the King, which was all the purpose of the council in France. Important matters can be referred to a Council General of the King of France, who is emperor in his own domain.³

He says that d'Ailly has referred to an agreement between the King and the Pope; any such agreement would be futile, since the King may have no dealings with the person

1. See supra p.51.

2. B du Chast. Preuves, p.233, verso.

3. Ibid.

of the Pope to the detriment of the Holy See.¹

Though d'Ailly and Jean Jouvenal des Ursins were men of very different training and outlook, though on this occasion they were more or less opposed, it is possible to find some resemblance between their views. D'Ailly, like Jean Jouvenal, denied that the Church had any sort of coercive jurisdiction, and repeatedly to the secular arm to act as the Church's executive power.² D'Ailly, too, complained of the same sort of abuses as did Jean Jouvenal, of the papal reservations and of papal taxation, and he too says that the Pope has no kind of command over the goods of the laity, except in exceptional cases.³ Both d'Ailly and Jean Jouvenal ask for more frequent provincial councils for ordinary purposes, such as reform. The great difference lay in the attitude of mind of the two men, and in d'Ailly's belief, or expressed belief, in Benedict's good faith, and in his realisation that just as the first withdrawal of obedience had done no good, so a second would be at once irrational and futile, - irrational

1. *Après dit monseigneur de Cambray, que le Roy est considere avecques le Pape. A quoy demandoit le Pape consideration avecques le Roy? N'estoient-ils mie assez consideres par avant?...Mais supposons que le Roy soit ainsi considere avecques le Pape, comme ils dient, le Roy ne puet faire consideration à la personne du Pape, qui soit prejudiciable au Siège Apostolique. B. du Chast. Preuves, p. 233 verso.*

2. See *infra*, part 2, pp. 183-185.

3. See *infra*, part 2, pp. 176-177.

because, once having acknowledged Benedict as Pope, France has no right to refuse to obey him, and no appeal from him save to a general council, which Benedict has promised to summon. in Paris at the prospect of the end of the reign of the

The voting on the question of a fresh withdrawal of obedience took place on January 4th 1407; the assembly declared for the partial restoration of obedience, in spiritual things only, that d'Ailly had described in his "De materia Concilii generalis" in 1403. Like most other compromises, the plan proved unsatisfactory in the long run, and caused endless trouble and disputes, the cause of the Pope being vigorously¹ taken up by the Duke of Orleans, as, indeed, it had been from the first. Benedict was declared perjured and heretical, and so to be deserted without notice, and it was further declared meritorious in the Princes to force his abdication if they could.² An appeal was made to the future Pope, whoever he might be, and to the General Council of the Universal Church over which he should preside.

Meanwhile, in November 1406, the death of Innocent VII in Rome roused fresh hopes of union. The University of Paris and the King endeavoured to come to some arrangement with the

1. Chron.Kar.VI,lib.xxvii,cap.18.

2. Compare d'Ailly's appeal to Charles de Malatesta to make Gregory resign in 1409. Mansi, Sac. Con. Coll. vol.27, cols.250, & 270.

Cardinals at Rome, - with or without Benedict. The new Pope, Gregory XII, announced his complete willingness to follow the way of cession,¹ and seemed likely to fulfil his promises. The joy in Paris at the prospect of the end of the woes of the Church was great, and it was resolved to abandon Benedict if he remained obstinate.

Gregory also professed his willingness, even his eagerness, to meet Benedict, and come to an arrangement with him. Benedict appeared to fall in with the suggestion, and an embassy was sent to Marseilles, where Benedict then was, in hopes of bringing matters to a satisfactory conclusion. The embassy included d'Ailly, Gerson, Jean Petit, Pierre Plaoul, Guillaume Filastre and Pierre Cauchon, later of unenviable fame. A similar embassy set out at about the same time from Rome, unfortunately under the direction of Antonio Corrario, the Pope's nephew, whose lack of tact nearly frustrated the purpose of the embassy. The negociators, however, ultimately succeeded in fixing on the town of Savona as the meeting place.

The instructions of the envoys from Paris are typical of the attitude of the French Church and court. They were to thank Benedict for his promise of cession and to ask him for

1. Chron.Kar.VI, lib.xxvii, cap.18.

a solemn confirmation of that promise in writing, which should be free from ambiguities and conditions.¹ If the two Popes were unable to fix on a place of meeting, they were to be asked to send deputies having sufficient powers, or to agree upon certain persons who should proceed to a new election in the name of all. There was to be no unnecessary delay; they were to wait no longer than ten days for Benedict's answer, and should he delay longer, they were to inform him that the King of France would proceed to negotiate with Gregory XII without him. Should Benedict refuse cession absolutely, his obedience² was to be renounced publicly and officially; his Cardinals were to be invited to desert him, and if they refused they were to be threatened with the loss of all their benefices in France. In order to secure solidarity of action and purpose, every member of the embassy was to swear to take no independent action without the rest, to keep no important communication from either of the Popes to himself, and neither to seek nor³ to accept any benefices or favours offered to him.

1. Chron.Kar.VI,lib.xxvii,cap.12.

2. Iterum si Benedictus nollet viam cessionis acceptare, cunctis postpositis, nomine regis et Ecclesiae gallicane eidem significarent quod rex et ipsa Ecclesia penitus recedebant ab obedientia sua tanquam a societate hominis scismatici et pertinacis, moxque mitterent ad regem ut inde littere conficerentur.

3. Chron.Kar.VI,lib.xxviii,cap.6.

(Ibid.

On May 9th 1407 the ambassadors reached Marseilles, and were well received, Benedict having apparently forgotten or forgiven the action of some among them who had been his adversaries at the Council of Paris.¹ The results of this carefully planned diplomacy were but poor. Benedict agreed to adopt the way of cession, but refused to give the solemn letters² of confirmation demanded by the envoys. He would not even promise that he would require of his Cardinals that in the event of his death they would not proceed to the election of a successor. In spite of the co-operation of the Cardinals with the envoys, Benedict could be moved no farther.³ On May 18th d'Ailly gave to the assembled ambassadors a detailed account of an interview which he and the Abbot of St Denis had had with Benedict on the previous evening: they had begged him for the love of God to give the ambassadors the assurance they were seeking: they had represented to him the prestige he would gain in France by such action, and the dire results of a refusal, - all in vain. The Pope, with what must have been exasperating prolixity "*vite sue tocius formulam ab ineunte adolescencia recensens*", marvelled at what he called the hard treatment

1. Chron. Kar. VI, lib. xxviii, cap. 6.

2. Ibid., lib. xxviii, caps. 8 and 11.

3. Ibid., cap. 11.

he had received from the King of France, and said that his word given in public was sufficient. His lengthy discourse amounted to a flat refusal of their demands, and, says d'Ailly, "he said a great deal, read somewhat less, and gave nothing in writing." ¹ In spite of d'Ailly's urging, the total result of the interview was a deadlock, - "itaque in hac parte nichil impetratum."

After the ambassadors left to return to Paris, they showed their dissatisfaction, and it was all that d'Ailly and Gerson could do to prevent a fresh withdrawal of obedience. ² They said that they intended to observe the instructions of the King in the spirit, in the interests of peace and union. They pointed out that no instructions remain binding if circumstances cause them to become subversive of peace; they can be deferred, or construed differently, or even ignored; the arrival of the nuncios from Rome justified fresh hopes of union; as a Cardinal who was well disposed to the negotiations had said, the French ambassadors, if not satisfied with Benedict, must keep the peace till the meeting took place, and then, if

-
1. Pluraque alia ab eo dicta, pauciora recitata, et adhuc pauciora scripta. Chron.Kar.VI, lib.xxviii, cap.11.
 2. Rationes (Petri Episcopi Cameracensis, Philippi abbatis S Dionysii, Johannis Gersonii cancellarii et Jacobi de Nornano) ad differendam substructionem. Martène et Durand, Thes.nov. anecdotorum, vol.II, col.1329.

that can only be regarded as hypocritical in the light of what was necessary, proceed against the Pope who did not fulfil the contract; that for the time being, it was sufficient that the Pope had declared openly his intention with regard to cession; that in any case, the nuncios from Rome had been contented with the offer of cession made by Benedict. They finally stressed the disorder and insecurity that would result inevitably from any such withdrawal, and said that the postponement of such action for two or three months could not do so much harm to the Church as hasty action would, which hasty action would also place the responsibility for the new breach upon the embassy. They were to wait till the King of France had had time to examine the evidence before deciding whether a retraction should actually take place or not.

As a result of d'Ailly's intervention, no action was taken, but some envoys returned to Paris to report, while d'Ailly, Gerson, and Simon Cramaud went on to Rome to try to dispose Gregory XII favourably to cession or some similar agreement. They arrived in Rome on July 5th 1407,¹ and found their worst fears realised. In an audience on July 6th they begged Gregory to hold himself in readiness to set out for the place of meeting, Savona. Gregory, in a burst of eloquence

1. Chron. Kar. VI, lib. xxviii, cap. 16.

that can only be regarded as hypocritical in the light of after events, said that he desired all the world to see that he, at least, was free from tergiversations and neglect of the matter in hand, yet he did not wish to ruin the chances of a settlement by undue precipitation, and therefore, etc., etc.¹ It is no wonder that the ambassadors told the envoys of Benedict who had by this time arrived by the sea route from Marseilles, that they were ill satisfied. The truth of the matter probably was to be found in the political situation of Gregory. Both personal and family ambition dictated that he should cling to the tiara as long as possible, and Ladislas of Naples, from whose raids into papal territory the Pope was never entirely free, was not any too well disposed to union, being engaged in the fascinating pursuit of fishing in troubled waters.

He began a drama that would have been a farce if it had not bordered too closely on the tragic. As Gregory drew back from the idea of meeting Benedict, so did Benedict press for such a meeting. Benedict actually left France to

1. ...cupere se dixit ut toti mundo visibiliter apparet non ambigere, nec labi horam, quin versando circa unionem suam ferretur excitatio. Dixit iterum se omnem ecceleracionem exoptare...ne precipitacio potius quam celeritas quesiti finis assequucionem impediret. Chron.Kar.VI,lib.xxviii,cap.16 The whole of chapters 18 and 19 are devoted to Gregory's excuses.

inclined to oppose Benedict. In addition to which trial, meet Gregory, and reached Savona by sea on September 24th 1407, while Gregory advanced as slowly as possible by the overland route. He got to Viterbo by August 15th, and it needed all the persuasions of the ambassadors and the Cardinals to induce him to advance as far as Siena: there he remained. As Leonardo Arentino said later, "The first, he of Avignon, is a sea-monster that cannot travel by land: the second, Gregory, is a land animal that cannot endure the sea." Benedict would not come any nearer to Gregory and Gregory said he feared treachery if he approached any nearer to Benedict. Ultimately, by dint of much diplomacy, the rivals were brought to within a day's march of each other, Benedict being at Porto-Venere and Gregory at Lucca. The fall of Rome to Ladislas at this juncture came to Gregory's relief, which was almost indecently obvious, and he availed himself of the excuse to defer negotiations indefinitely.

On September 23rd 1407, Benedict's party received a serious blow. His ardent partisan, the Duke of Orleans, was murdered in Paris by order of his cousin, the Duke of Burgundy, who was his rival for the regency during the insanity of Charles VI. The King's advisers after this were distinctly

1. Muratori, Rerum Italicarum scriptores etc. vol. xix, col. 926.
2. Chron. Kar. VI, lib. xxviii, cap. 30.

inclined to oppose Benedict, in addition to which trial, Benedict found that his revenues were not coming in with their accustomed regularity from France. Finally, in January 1408, the King declared that unless union was reached by Ascension Day (May 24th 1408) he would declare himself neutral.

During this critical period, Pierre d'Ailly had not been idle. Since July 1407 he had been communicating with both Popes in the interests of union. In January 1408 he wrote to Benedict lamenting that Gregory could not be got to fulfil his promise of cession;¹ failing the way of cession, he said, there still remained three remedies. Some definite arrangement should be reached regarding the mode of procedure in the event of the death of one of the contestants, or a general council of Benedict's obedience should be summoned as soon as possible,² or, finally, resort should be had to a general council proper, - he makes this last proposal as delicately as possible, having regard to Benedict's feelings on the matter.³ He is, he concludes, going back to his flock in Cambrai, as they have been getting restive at his protracted absence.

1. Op.Gers.II,cols.105-106. Dated January 28th 1408.

2. He adds "Quae ita fieri intelligo, ut circa unionem Ecclesiae per viam predictam nihil interim de contingentibus omittatur."

3. Tertium remedium hic taceo, quia non nisi ex generalibus Conciliis consensu et communi auxilio, videtur posse utiliter praticari, vel praetactari salubriter. Ibid.

That he felt very strongly on the subject of the duty of the Cardinals and their responsibility is shown by his "Octo conclusiones per plures doctores theologos et iuristas in partibus Italiae approbatae" in which he says that just as the Cardinals in electing the Pope act for the Universal Church, so have they done the same in taking their oath to resign the papacy on their election if necessary. This oath is binding on the whole Church, which stands pledged to end the Schism by some means or other. The evasion of such an oath is a mortal sin, and should Gregory's Cardinals find him prevaricating, they should desert him, after giving him notice of their intention, - should they refuse to do so, they are to be suspect of schism themselves. Clergy, Princes and Universities are to combine in repudiating the obedience of one who is found¹ wavering in such a crisis.

Meanwhile Benedict had again taken up the cudgels. To the King of France's announcement in January he replied with a threat of excommunication, which he ultimately carried out. On May 21st 1408 the withdrawal of obedience was approved² by an assembly at Paris, and an attack was begun on the partisans of Benedict, among them Pierre d'Ailly, who had just come

1. Cp. Gers. II, cols. 110-111.

2. Bulaeus, Hist. Univ. Paris. vol V, p. 160.

from a council at Rheims. Boucicault received orders to imprison Benedict if he could catch him, and the break was complete. From this time on, the secular authorities work with the clergy to secure the peace of the Church without any reference to the Popes.¹ From August to November 1408 an assembly in Paris was deliberating upon the details of the new government of the Gallican Church² - at this assembly d'Ailly was not present, whether as a protest against the King's action, of which he strongly disapproved,^a or because of the very real danger he would have incurred from his enemies, is uncertain.

At the same time the Cardinals of the two obediences were coming to an agreement, in spite of all the Popes could do to prevent it. By July the Cardinals of both obediences together issued an encyclical letter to all Princes and Prelates, summoning them to a general council of both obediences which was to be held at some place in Italy not then determined. Gregory immediately summoned a council of his own to be held at Ravenna or Aquileia, and Benedict had summoned a council for the Feast of All Saints at Perpignan. From a dearth of general councils Christendom had passed to a superfluity. The Cardinals decided that their council should meet in March 1409 at Pisa,

1. See Valois, *La France et le grand schisme* etc. III, p. 616.
2. Bulaeus, *Hist. Univ. Paris.*, vol. V, p. 170.

and they summoned Gregory accordingly; he answered them with a counter-summons to attend his council at Aquileia. As for Benedict's Council of Perpignan, it was a mere farce, only sixty prelates attending.

The Universities of Paris, Bologna and Oxford declared themselves in sympathy with the Cardinals, as was d'Ailly himself. In a letter written early in 1409 to the Cardinals assembled at Pisa,¹ he congratulates them most heartily on having achieved a general council, which, he says, he has always advocated, and which is the only alternative to cession.² He says he is hastening to join them, and would have done so before, had he not promised to wait for the Cardinal de Bar.³ In his "Propositiones utiles, ad exterminandum praesentis schismatis per viam Concilii generalis"⁴ he provides the Cardinals with a complete justification of their action. He points out that the unity of the Church is not dependent upon the unity of its earthly head, that it has the power from Christ to take the necessary steps for its own preservation, that it certainly has the power to summon a council if necessary without any reference to the Pope. If the Pope refuses to summon a general council which is necessary to the well-being

1. Printed in Tschackert, Peter von Ailli, appendix p.29-30.

2. Quum enim per viam liberae cessionis... nondum, prohdolor, caeca ambitione procurrante, data sit pax ecclesiae: quae alia restat via nisi haec (concilii generalis) Ibid. p.29.

3. Ibid.

4. Op. Gers. II, cols. 112-113.

of the Church, not only the Cardinals, but also any of the faithful, especially the great, whose authority entitles¹ them to co-operate with the clergy, can summon a council. Perhaps his most significant writing on this subject was the tract he addressed from Tarrascon on January 10th 1409 to the² Council. Here he says that both Popes are bound to ratify and approve the Council of Pisa and all its works; that they ought to appear at the Council, better by proxy than in person, since all Christendom has seen an example of the difficulties of a personal meeting between them; that if they are asked to come and refuse, the Council can proceed against them, after having summoned them in the name of the Church Universal, and can depose them and proceed to a new election; the Council can do this, says d'Ailly, but he is not too sure that it is expedient that they should do so, - they must make quite sure firstly that all Christians would abide by such a new election if made, otherwise they will be merely adding to the Schism instead of ending it, secondly that the newly elect should be bound to³ resign should the need of the Church demand it. He adds some wise advice on the subject of the treatment of either Pope who⁴ should resign. In the light of after events, this prophecy of

1. Op.Gers.II,col.113.

2. Martène et Durand, Vet.Script.tom.VII,col.916

3. Ibid.col.917.

4. Ibid.col.918.

the results of rashness is only too accurate. The Council of Pisa, in electing Alexander V, merely added a third Pope to the situation.

The Council met in 1409 and prepared to take action against the Popes. A committee, including d'Ailly, was deputed to try to get Gregory either to attend the Council or to resign. Gregory was at this time under the protection of Charles de Malatesta, a Prince whose conduct shows up most favourably against the background of suspicion, self-interest and intrigue provided by his contemporaries. D'Ailly did his best to get Malatesta to use force if necessary, but he refused, and the work of the committee was fruitless.

On May 10th, at the eighth session of the Council, a decree was read declaring that the union of the two Colleges was legal and canonical, as were all the proceedings of the Council, which truly represented the Church.

On June 5th, at the fifteenth session, Petrus de Luna and Angelo Corrario, quondam Popes Benedict XIII and Gregory XII, were proclaimed heretics, schismatics, perjured, scandalous and deposed as such, and on June 26th Pietro Philargi

1. ..rogabat et hortabatur Carolum ex parte dominorum suorum cardinalium uniti collegium et universalis Concilii...quatenus vellet unionem et pacem dare populo Christiano et ecclesiae sanctae Dei, quoniam poterat si volebat, videlicet modum servando, quod dominus Gregorius, qui erat in domo sua et in eius potestate, Pisis accedat, et renunciaret sicut promisit, vovit et iuravit, vel stans ubi est per procuratorem -Mansi, Sac. Conc. Coll. vol. 27, col. 250.

was elected and became Alexander V. He was pledged to reform, but soon after his election made the significant suggestion that such matters should be put off till the next Council, which was fixed for April 1412.

The legality of the Council of Pisa was by no means undisputed, and d'Ailly had to defend the Council and his own part therein against an attack from Boniface Ferrer.¹ This he did in his "Apologia Concilii Pisani", dated from Avignon, January 10th 1412.² As d'Ailly refers mostly to his works just before the Council of Pisa for its justification, no further analysis of them need be given here. He dismisses Boniface's charge of having obstructed the work of the Council as absurd, as indeed it was, and has to defend himself against various other charges, such a venality and self-interest, to which he replies by an account of his work during the Schism. He also enclosed his "de materia Concilii generalis", which, he says,³ contains much appositè information.

In May 1410 John XXIII had succeeded Alexander V as the "conciliar" Pope, both Benedict and Gregory clinging to

1. Martène et Durand, *Thes. nov. anec.* II, 1435-1529.

2. Tschackert, *Peter von Ailli*, appendix pp. 31-41.

3. ...in eadem vero parte et duabus sequentibus variis allegationibus tam divini quam humani iuris insistens, ex quibus potuerunt simplices de praemissis clarius et plenarius informandi. *Ibid.* p. 39. See also *supra*, p. 44 note 2.

their rights as fiercely as ever. D'Ailly was not slow to urge upon him the need for another council to complete the work of Pisa. John did convoke a council for April 1412, in June 1411, at a time when he made several new Cardinals, d'Ailly becoming the Cardinal of St Chrysogon, but he seemed only too ready to put off the actual meeting, and by the end of the year nothing had been done. It was only by the efforts of Sigismund, King of the Romans, that John was finally brought to the point; in October 1413 he announced a General Council to be held in November 1414 at Constance. The King of France, under whose auspices the Council of Pisa had been held, was none too pleased that the King of the Romans should have taken his place as the champion of the Church, but he allowed himself to be conciliated, and the Bull of convocation issued by John XXIII from Lodi on December 9th 1413 was received with universal rejoicing, apart from the few irreconcilables who still maintained the authority of Benedict or of Gregory.

With the exception of the "De potestate ecclesiastica" and one or two sermons, most of the work of d'Ailly at the Council of Constance centres round the practical problems which arose in the course of events. The first of these was the question of the relationship between the Councils of Pisa

and Constance. The Italians proposed the confirmation of the work of Pisa as the first step to be taken in the Council of Constance. D'Ailly replied¹ that the Council of Pisa was the foundation of that of Constance; certain questions, he said, lay before the present Council as a direct result of the recommendations of Pisa. Pisa, at the nineteenth session, on August 7th 1409, had decreed a continuation of itself, to deal with reform; not only that, but the obligation to bring about reform, which could be achieved only in a General Council, was of natural and divine law, and any who should try to dissolve or prorogue the Council were schismatics and to be gravely suspect of heresy.

Constance, he said, had no right to confirm Pisa, whose legality was the presumption upon which Constance stood, and whose work Constance was bound to continue.²

Finally, there would be no sense in rousing the resentment of those who still entertained doubts as to the position of the Council of Pisa, by a fresh assertion of its validity. For all these reasons he concluded that the proposition of the Italians was not to be considered.

-
1. Responsio ad illam Italorum schedulam...de proprie Pisani Concilii autoritate. Von der Hardt, Rerum Concilii Oecumenici Constantiensis, vol.II,col.193.
 2. On another occasion he spoke of the Councils of Pisa and Constance as properly one. See V.der.H., vol.II,p.201. Conclusiones de Pisani et Constantiensis Concilii unitate.

The next practical question arose out of the necessity of obtaining the resignation of Popes Benedict XIII and Gregory XII, who, though declared deposed by Pisa, justified d'Ailly's own warning to the Cardinals.¹ D'Ailly pleaded, by all arguments in his power, that some settlement should be reached.² Honourable positions should be offered as a compensation for either Pope who should resign; if resignation was impossible, steps should be taken to end the Schism with the lives of the recalcitrant Popes. Offers of terms should not be rejected, and should the present Council fail to find the solution, its power should be delegated to a committee till a new Council should meet.³ All members of the Council, lay and ecclesiastic, were to strive for the end which d'Ailly saw as attainable only when the resignation of the two recalcitrants was obtained.

He carried his belief in cession to its extreme. He ultimately proposed the cession not only of Benedict and Gregory, but also of John XXIII as the only solution. A fresh start had to be made somehow, and d'Ailly, with his intense consciousness of the practical demands of the situation, was

1. See supra, p. 78.

2. *Schedula nova...de duabus pontificibus...ad spontaneam cessionem blande invitandis.* V. der H., II, 197. also pp. 198 et seq.

3. ...possunt eligi aliqui de qualibet natione, in quos possit transferri tota autoritas concilii generalis sicut alias similiter legitur esse factum. V. der H., II, 203.

among the first to advocate the cutting of the Gordian knot. Filastre proposed the cession of John XXIII, and d'Ailly supported him, proving that such a proposal in no way derogated from the dignity of the Council of Pisa, - rather did it fulfil the end of that Council and exalt John XXIII over the rest as having the true interests of the Church at heart. Any Pope, said d'Ailly, though perfectly innocent, may be made to resign for the good of the Church, and if he refuses he can be condemned as a schismatic and a suspect of heresy.¹

It was the action of John XXIII himself that precipitated the issue and brought about the passing of the most revolutionary decrees of the Council. Scared by an anonymous² accusation of the most virulent type, John promised most solemnly to resign, swearing with his hand laid on his heart, kneeling at the foot of the High Altar. This oath was to take effect if Benedict and Gregory resigned, or in any other circumstances in which his cession would be useful to the Church. Less than three weeks after he made this declaration, he took advantage of a great tournament held on March 20th 1415 to slip out of Constance in disguise and flee to Schaffhausen, where the Duke of Austria joined him. He nearly achieved his

-
1. Responsio ad illas Johannis Papae exceptiones, cessioni desideratae oppositas. V. der H., II, 219-220.3
 2. Theodoricus de Niem, Vita Johannis XXIII, lib. II, cap. 3.
 3. Ibid., cap. 7.

purpose, which was to break up the Council, but owing to the exertions of Sigismund and the skill with which Gerson provided the Council with a logical justification of its continued existence without the Pope, the members were rather goaded into defiance than frustrated by the Pope's action.

On 26th March 1415 at the third session, presided over by d'Ailly, it was declared that the Council was not dissolved by the Pope's flight, and furthermore could not be dissolved before the consummation of union and reform. At the fourth and fifth sessions the Council went further, definitely proclaiming the superiority of General Councils over the Pope. D'Ailly was discreetly absent on these occasions, on the plea of indisposition, as were several other prelates. Though the principles of the revolutionary decrees were those he had himself expressed in his writings, he did not care to associate himself too closely with putting those principles into action in such a daring manner. The Council proceeded against John XXIII, published the accusations against him, and instituted a regular process. He tried to get d'Ailly to appear on his behalf, but d'Ailly refused. He was forced to submit, and the Council at the twelfth session published his deposition.

1. He appeared as a witness against him. See Valois, op.cit., IV, 2. May 29th 1415. Von der Hardt, IV, 281-285. (p. 138.

The Council declared him deposed on the grounds that his flight was contrary to his oath, that he was notoriously simoniac, that he had administered both the temporalities and the spiritualities of the Church badly, and that his life both before and after his election as Pope had been scandalous.

In June 1415 Gregory finally sent in his resignation by the hand of his faithful Malatesta. It only remained to obtain that of Benedict. He, in spite of all Sigismund could do, remained obstinate, arguing that he was now the only Pope and that therefore the Council was schismatic in denying his title.¹

During these negotiations the Council was preceeding with its work. Its purpose was not only the healing of the Schism, but also the suppression of heresy, notably the heresy of John Hus. D'Ailly was a member of the committee appointed to deal with the case, and showed himself worthy of his title of "The Hammer of the Heretics". From June 7th 1415 for the next few days he conducted a detailed inquiry into the statements ascribed to Hus, and questioned Hus closely. Though he obviously regarded Hus as an insolent heretic, he acted towards him with scrupulous justice, except for one or two outbursts during the inquiry, and he visited him in prison at the last

1. Murat.rer.ital.vol.III,part II,p.850.

2. Von der Hardt,IV,308-329.

minute to try to get him to recant. It is interesting to notice that in some points with regard to the Church the two men were agreed. Hus, like d'Ailly, maintained that Christ, rather than Peter, was the Head of the Church and its true Foundation, and he had a similar idea of the nature of the authority of the Roman Church as apart from the Church Universal.

The condemnation of the work of Wycliffe in the Council caused d'Ailly to elaborate his ideas of the relative positions of Pope and Council. By which formula were heresies to be condemned, "Nos, hoc sacro approbante Concilio, damnamus, etc" or "Sacrosanctum Concilium damnat, etc"? In the course of his discussion he says that authority to define, most of all in matters of faith, belongs to the Council, even, according to some, when it is the case of the Pope that is under discussion¹. The contrary opinion he condemns as erroneous and subversive of the authority of the Council of Pisa and hence of that of the Pope elected by it. The Council received its authority from Christ, -not from the Pope, -as representing the Universal Church, while the Pope has no such authority or infallibility, and therefore must be inferior in such matters to the Council.² The final form adopted stressed the authority of the Council

1. ..auctoritas definiendi, maxime in materia fidei, pertinet ad Concilium generale. Et idem dicunt aliqui, quando agitur de facto Papae....Von der Hardt, IV, 138.

2. Ibid. col. 156.

rather than that of the Pope.

The most important question of heresy ended for the Council with the execution of Jerome of Prague, the disciple of Hus, on May 30th 1416. Two questions remained, that of the leadership of the Church, and that of reform. It was obvious that the influence of Benedict XIII was at an end, but his deposition created another practical problem. There could be no doubt that this time the Council had succeeded in deposing the Pope effectively, but how was the new pontiff to be elected? Tradition demanded that the election should rest with the Cardinals, but it was, in the circumstances, manifestly impossible to exclude the Council from all share in the voting. Once again it was d'Ailly who provided the practical solution, in his "Modus vel forma eligendi summum pontificem". To the glory of God, the union of the Church and the honour of the Council, he said, and in order to secure an election of undoubted validity, representatives were to be chosen from all nations in the Council indiscriminately, in number not to exceed the number of the Cardinals, with whom they were to proceed to an election. For the election to be valid, the elect must secure

-
1. There was also the case of Jean Petit, for which see infra,
 2. Von der Hardt, IV, cols. 1452-1457. (pp. 121-126.)

the votes of two thirds of the Cardinals and of two thirds of the deputies of the Council. The conclave was to be held in accordance with the usual rules, and all the members were to take an oath that they were unbiased and were acting from the highest motives. This arrangement was to apply to the present instance only, and was not to be regarded as creating a precedent.

Having fixed the form of the election, the Council had to decide whether the work of reform should precede the election or not. Some members, notably the Emperor, the Germans and the English, demanded reform first, at least of the papacy and Curia. The French, the Italians and the Spaniards were of the contrary opinion, d'Ailly declaring¹ that the Church without a head was a monstrosity, and that an election² must complete the constitution of the Church before reform could be discussed. Again it was d'Ailly's opinion that carried the day. After passing a number of decrees calculated to ensure

1. Von der Hardt, IV, col. 1400.

2. He has changed his mind since the time when he wrote in his "Quaestio de resumpta" -... licet quantum ad multa sit similitudo inter corpus Christi mysticum, quod est Ecclesia, et corpus materiale hominis; tamen non in omnibus est similitudo: quia corpus hominis non manet vivus sine capite: corpus autem Ecclesiae manet vivum, scilicet vita Fidei et gratiae, absque capite in terris, ut puta dum caret Summo Pontifice; tamen tunc habet caput in coelis, scilicet Christum, qui est caput Ecclesiae.... Op. Gers. I, col. 691.

the continuation of General Councils in the future, to guard against a recurrence of schism, and to restrict the power of the Pope to grant reservations etc., the Council elected Otto Colonna almost unanimously, after a great deal of discussion¹ in the conclave; he took the name of Martin V.

This time the effect of d'Ailly's advice was not so salutary. Reform was becoming increasingly difficult, and national animosities were breaking up the Council. "It is enough for one nation to desire a reform for another to reject it," said the delegate of the University of Vienna.² D'Ailly himself was by no means free from national prejudice, - it was he who led the opposition against the consideration of the English as a separate nation; he said they should vote and be counted with the Germans.

It had been arranged that the Council should vote in nations, and the English claimed their separate vote and used it till the arrival of the Spanish delegates on September 5th 1416. The addition of a fifth nation raised the question of the English vote.

The question of voting in the Council was discussed³ by d'Ailly in his "De reformatione Ecclesiae", presented to the Council in November 1415. This tract is merely a revision

1. November 11th 1417.

2. Salembier, Le grand schisme de l'Occident, Eng.trans.p.366.

3. Op.Gers.II,cols.903-924 & Von der Hardt vol.VI,cols.15-78.

of part three of the "De materia Concilii generalis", with some allusions which were topical in 1403 cut out and others suitable to the situation in 1415 included. The subject matter of the tract is relevant to a discussion of d'Ailly's conception of the ecclesiastical polity as giving his ideals of what it should be and how it is to be governed.

The most pressing need, he says, is for the more frequent celebration of General Councils. They should occur "every three years, or at least every five years. For various reasons it seems convenient that the council should be held in the year of the Jubilee, and that all the bishops or their representatives should, without any further summons from the Pope, meet for the purpose in Rome or any other suitable place in which the Curia may be... And if any other devoted Princes or ecclesiastics wish to attend, they should have indulgences from Rome to enable them to do so." ¹ Apart from these General Councils, provincial councils should be held more frequently; they used to be held twice a year, but later, firstly because of inconvenience and finally because of neglect, they were omitted, and d'Ailly shows that the prelates who neglect to attend, and the Princes who put impediments in the way the

1. The passage in inverted commas is omitted in the version of 1415. See MS of De materia etc. 1571, f. 72.

meeting of such councils are still liable to canonical penalties. They should be held at least every three years, - it is not true that the Papal Curia can meet all emergencies, as some say it can. All kinds of evils spring from the neglect of provincial councils, and still more from the neglect of General Councils, which represent the only body strong enough to correct the highest in authority. If General Councils had been more frequent¹ he says, the Schism would not have lasted so long, nor, perhaps, would the schism of the Greek Church.

Reform cannot be dealt with by any other body better than by a General Council; the reform of the Curia, which is so necessary, demands such a Council. All matters of faith should go to the representative body of the Church, says d'Ailly,² and he quotes St Augustine to prove it. Among matters of faith he includes the problem of the defence of the Church against the Saracens and other infidels, who are actually threatening Constantinople and the Eastern Empire. He also includes the question of the Greek Schism, which, it seems to him, could be ended at this opportune moment when the Eastern Emperor is

1. ...ecclesia, quae sola potest audacter et intrepide omnes corrigere, ea mala quae universalem tangunt ecclesiam diu remanserunt impunita. quod ut tandem multa iniusta et iniqua sub praetextu fictae et corruptae consuetudinis licita reputantur. MS 1571, f. 173.

2. Unde quod in arduis et magnis dubiis et per consequens in tangentibus reformationem et dispositionem Romanae Ecclesiae finaliter ad Concilium generale pervenire oporteat ostendit.

suing for help to all the Princes of the West. power of election
not from The first thing that strikes d'Ailly about the papacy
and the Curia is the need for the reform of the abuse from
which he says the Great Schism has originated. Various nations
have at various times so secured the papacy to their own
countrymen that they have almost been able to say that it was
hereditary in that nation.¹ It should therefore be decreed that
the greater part of the Cardinals should not be drawn from one
country or another, but that they should be chosen regardless
of their nationality, on their merits alone. There should be
one Cardinal only from each province. In the 1403 version he
says that the Pope should never be elected from the same Kingdom
or province twice running; nor should he be elected twice
running from the College of Cardinals, since it is not to be
presumed that there is no merit outside the College, and since
an election of one from outside the College precludes any sort
of collusion among the Cardinals. They have in the past so
abused their privilege of election that it is now the opinion
of many that it should be taken away from them altogether,
and some other means of election should be determined by a

1. ...una natio sive regnum, aliquando ultra, aliquando citra
montes, in scandalum residuae Christianitatis, ita diu
papatu tenuit ut posset dicere: Haereditate possideamus
sanctuarium Dei. MS 1571, f. 77.

concerning papalities. Finally he includes in his list of General Council, since the Cardinals hold their power of election not from Christ, but from the Council.

Another cause of the Schism, says d'Ailly, was that the faithful were not in-formed in time of the election of Urban VI and possible objections to it. To avoid any future misunderstandings, a certain time limit should be laid down, after which no exception can be allowed to any papal election. The cases in which intimidation may be pleaded as invalidating an election, and the exact meaning of intimidation should also be defined by the Council.

D'Ailly also discusses the "gravamina" which he says the Roman Church imposes upon its subject Churches. Papal exactions are to be reduced, both by the reduction of the pomp of the Pope and Cardinals, and by the reduction of the number of the latter. Ecclesiastics of all ranks are no longer to enjoy the scandalous pluralities which have done so much to impoverish the Church and to keep many worthy and learned men out of office. The second kind of "gravamen" is the multitude of excommunications and the consequent irregularities, to say nothing of the contempt of the most serious punishment the Church can inflict, which is undoubtedly the result of its frequency. The third kind of imposition lies in the multiplicity of statutes, canons and decretals, and most of all those

concerning penalties. Finally he includes in his list of "gravamina" abuses like papal collations to benefices, against which he argued in the first and second parts of the same tract, "De materia Concilii generalis".

He deplores the erection of officials of the Curia over not only bishops, but also archbishops, primates and patriarchs, and the exaltation of the Cardinals above the Pope himself on some occasions - it has even been said that the Pope cannot degrade a Cardinal. On the other hand, d'Ailly does not agree with those who would do away with the College altogether and in his 1415 version he refers to his tract "De ecclesiastica potestate"¹ in which he has defended the Cardinals and proved the necessity for them.

Thirdly he discusses the reform of the episcopate, and the attributes of the sort of man who should be appointed as a bishop. He should not be a flighty youth - "iuvenis indiscretus" - but a serious man, learned and amenable, zealous for the public good rather than his own; who will oppress not his flock but rather their oppressors; who has studied the Scriptures and has not confined himself to secular learning; who takes no delight in trivialities and conceits, but is content to preach and to be an example to his flock. In order to secure

1. De Ecclesiae, Concilii Generalis, Romani Pontificis et Cardinalium autoritate Op.Gers.II,cols.925-960

the appointment of such men, elections should be made a matter for careful consideration; above all, let the absurd and illegal practice of creating titular bishops be abolished.

Superintendence of the bishops, both by visitation and by the Council is to be stricter, and the Pope is no longer to have the sole power of deposing bishops, for they are to be made responsible to a Council also. Their pomp is to be restrained, and the spectacle of a military bishop taking up arms, often to the shedding of blood, is to cease. Bishops should not be allowed to leave their dioceses for any length of time without special licence; d'Ailly abhors the bishop who is rather a servant of the secular administration than of the Church. He has a great deal to say on the subject of episcopal curias and their venality and corruption generally, - in fact no weakness of the system escapes him.

Finally he turns to the reform of the laity and chiefly of the Princes. Here he gives a detailed account of what he considers are the duties of Princes.¹ The Prince's function is essentially that of an example to his people. He is to eschew pride and all the evils that come from too great a delight in temporal exaltation: he is to rule his people not

1. MS 1571, ff. 94-98. This detail is given in the 1403 version only. The 1416 version and hence the printed versions contain a precis only.

for himself, but for Christ. If he rules badly he will bring his religion into contempt, since the infidels will say that Christ cannot have been what He is said to have been, else His followers would not so openly practice the opposite of what they preach, and their attendance at all these gorgeous masses and acts of devotion would not leave so little effect on their characters.

Most particularly is it the office of the Prince to see that his subjects are not corrupted by the example of his vices. He is also to see that his children receive good moral and academic training, presumably since they are to succeed him in his duties. Apart from the force of his own example, he is to educate his people by positive measures defending them against luxury, avarice, sloth and all other vices, and especially from the sins of blasphemy and perjury. He should delete those customs which are contrary to natural and divine law, with the counsel of the theologians and other prudent men. Especially should he combat all magic arts and superstitions condemned by divine law, together with all heresies, and he should do all he can to assist in the reform of the Church.

He is to administer justice against the persecutors and oppressors of the Church, and to uphold the cause of the poor

provinces too small to provide the requisite number, these shall
and the weak. He is to live in true Catholic brotherhood with
be a fusion between neighbouring provinces into one, which shall
his neighbours, and with them he is to wage war against the
infidel, most particularly when the work of reform has been
achieved. Internal war is to cease - the kingdom that is
divided against itself cannot stand.

He is to show no favour towards the Jews, and is not
to allow them to remain among his people unless in the capacity
of servants; certainly their trade as usurers is to be stopped.

These and other reforms are to be brought about by
the Princes working in conjunction with the Council; and here
the 1403 version ends, with a peroration in keeping with the
sentiments of the rest. The 1415 version included certain
institutions and customs they wished to destroy. So far as he
points which arose in connection with the working of the Council
of Constance. The Princes are to attend the Council, not to
burden, but to console the Church, and, as d'Ailly had so often
said, to act as the Church's executive power. They are not to
be contentious - and on these grounds d'Ailly condemns the
division of the Council into nations, which division is far more
secular than ecclesiastical. He proposes that the voting should

be rather by provinces; as the provinces vary so much in size,
it shall be decreed that to constitute a province in the Council
there must be at least twelve magnates. In the case of the

provinces too small to provide the requisite number, there shall be a fusion between neighbouring provinces into one, which shall take its name from that which send the most or the most notable deputies. These representatives are to be elected in provincial councils before the General Council, at which regulations concerning the pay, expenses and finance of the representatives, shall be discussed as a matter of ecclesiastical, not secular finance.¹

D'Ailly's work on reform shows that he appreciated the difficulties in the ecclesiastical polity as few of his contemporaries did. Others there were who attacked the Church, but few had sane proposals to put forward in place of those institutions and customs they wished to destroy. So far as he is concerned with the reform of the governors of the earth, secular or spiritual, all he has to say merely endorses and illustrates the ideas put forward in this earlier work.² The ruler's care is to be all for his subjects or his flock; he must remember that he is an example to them, and is in some sense responsible for them.³ All things must be seemly and in

1. ...electio fieret in Conciliis provincialibus, generale Concilio praecedentibus. Et ibidem ordinaretur de stipendiis, expensis et sumptibus eorundem per modum subsidii charitativi ecclesiastico more, et non seculari autoritate vel potestate imponendi et exsequandi. Op.Gers.II,col.924.

2. See part II, infra.

good order, and for this good order both priest and Prince are responsible. The hierarchy of the Church must be so organised¹ that any defaulting or unworthy minister can be removed at once by the General Council, the body representative of the community, to which he is responsible. Minor cases are to be dealt with by the minor representative body, the provincial council.

D'Ailly sees Christendom as a vast body having two aspects and two polities, the local polity of the State, and the greater, all-embracing polity of the Church, of which all men, lay and ecclesiastic, Prince and commoner, are members. This vast body is guided by the Priesthood, who have an awful responsibility laid upon them; though they have not dominion, but only "ministerium",² though they have no coercive jurisdiction, it is their work to rule by good influence and to guide by their example; they are the bailiffs of the King of Glory.

This, in broad outline, is d'Ailly's conception of government, and an account has been given of the circumstances and events which led him to his conclusions. Without the Great Schism and its vicissitudes, d'Ailly's attention might never

1. Unde nihil est, quod tam efficaciter possit sive ad bonum sive ad malum principes et alios laicos inducere, sicut facta exempla ecclesiasticorum...ut dicit Chrysostomus...Sicut cum vides arborem palentibus folliis intelligas quod vitium habet in radice, sic cum videris populum indisciplinatum, sine dubio cognosce quod sacerdotium non est sanum. MS 1571 f.97.

2. See infra, p.109-110.

have been directed to the problem of government in Church and State at all. As it was, one of his earliest works concerned the justification of lordship,¹ and another concerned the nature and government of the Church,² and his writings continued to hold similar interests. It remains to construct from his various works his theory of government in Church and State as a whole, and to trace his debt to his great predecessor who, like him, was led to construct a political philosophy for the Church by the vicissitudes of his own time and his own career. the broad principles of lordship to their application to the Church in particular, and in the second tract, to their application to the question as to whether in a case of schism the Pope should resign his office in the interests of the community.³

The "De legitimo dominio" was produced by d'Ailly as his "Aulica" or dissertation pronounced in the Bishop's hall as part of the qualification for a Master's degree.⁴ Its form is that of the usual syllogistic argument, - it contains three conclusions with their corollaries and proofs.⁵ The question

1. Op.Gers.I, cols 641-646.

2. Op.Gers.I, cols 648-693.

3. For an analysis of this part of the tract see supra pp. 25-32.

1. Quaestio de legitimo dominio. Utrum Christi dono gerens potestatem solus in hominibus iuste dominetur. Op.Gers.I, cols.641-646.

2. Quaestio in suis vesperiis. Utrum Petri ecclesia lege regulatur. Also Quaestio de resumpta, Utrum Petri ecclesia Rege gubernetur. Lege regulatur, Fide confirmetur, Iure dominetur. Op.Gers.I, cols.662-693.

PIERRE D'AILLY'S GENERAL THEORIES.

from Christ can rule. CHAPTER I.

The tract opens with a refutation of certain argu-

him. Dominion and the exercise of dominion, says d'Ailly, are

...singiam, but cannot be said to have legal dominion or to be

1. Op.Gers.I,cols 641-646.
2. Op.Gers.I,cols.646-662.
3. For an analysis of this part of the tract see supra,pp.25-33.
4. Bulaeus, Hist.Univ.Paris.vol.IV,p.980.
5. Salembier, Petrus de Alliaco, p.17.
6. For the purpose of convenience this form is not followed here, nor does the order in which the points are discussed necessarily follow that used by d'Ailly.

discussed is whether only he who received dominion as a gift from Christ can rule justly.

The tract opens with a refutation of certain arguments intended to prove that such a gift is unnecessary. It has been argued, says d'Ailly, from the text "They have set up kings, but not by me; they have made princes and I knew it not,"¹ and from Aristotle's declaration in the Ethics BookVIII, that justice and injustice constitute the only difference between king and tyrant; nevertheless there remains the fact that there is no power save from God, and that Christ is the source of all dominion. Hence no man may hold dominion justly save by His gift, unless he has the gift of "ministerium" from Him.. Dominion and the exercise of dominion, says d'Ailly, are distinct, and the gift of "ministerium" can justify the exercise of dominion simply. He illustrates his distinction from feudal law. The King, he says, has dominion in his realm, yet there are many acts of sovereignty which he does not perform, while the bailiff exercises the authority of the King in the kingdom, but cannot be said to have regal dominion or to be the lord of the realm. The King thus possesses an authority which he does not always exercise, and the bailiff exercises an

1. Hosea, VIII,4.

authority he does not possess.

Having drawn this distinction for the better understanding of his point, d'Ailly says that the Text "They have set up kings etc." may be understood generally to include both unjust and just dominion. According to d'Ailly the difference between just and unjust dominion is that between dominion derived from God directly, and that which is not, for some reason, derived directly. It is to the latter that he says the text applies.

He has now to consider the relation between dominion not derived directly, and God, the ultimate source of all authority, and to explain what Hosea meant when he said that there are kings who do not rule by God. There can be no dominion, just or unjust, says d'Ailly, without the "efficax Christi beneplacitum". While God directly gives dominion to the righteous man, He merely allows that of the wicked for some purpose of His own. D'Ailly's distinction later on in the tract between the divine permission extended to the rule of the tyrant de facto, and what he says is the "approbatio proprie dicta" suggests that he thought of different kinds of divine approval.

He points out that it has been objected that the fact that God gives permissive approval to unjust as well as to just princes makes this approval unnecessary. He has no

difficulty in conceding the point that permissive approbation is extended to the rule of a tyrant, but he denies that such approval can be called "*approbatio proprie dicta*". God's approval is not unnecessary, because none have power without it: it is not superfluous, because of the distinction in the approval extended to the rule of true princes and tyrants severally. He gives an illustration of this argument in the second tract, "*Utrum indoctus in iure divino possit iuste praeesse in ecclesia regno.*" Here he says that though God is never the source of evil, yet He may place an unjust man in authority as a punishment of evil, either on the part of the man himself, or of his subordinates; this in the way of justice, since God does nothing unjustly. In this sense God may elevate a man to high office simply because he will be unjust, and so cause his subjects trouble, as Pharaoh and Nebuchadnesor did to the Israelites. Sometimes an evil man is given dominion to bring about his conversion, - Constantine, having been punished and converted, became a pillar of the Church. God puts men where He will, regardless of their characters, - witness the example of Judas, who did not lose his discipleship on account of his being a thief, as we are told he was, in John XII, 6.

In all these cases, it was the permissive approval of God

that allowed unworthy men to fill honoured positions; far from being unnecessary to their dominion, God's permission was the cause of their enjoying it at all.

Part of the treatise "De legitimo dominio" is grounded on a denial of the theory of dominion as dependent on grace, which was being expounded in the works of Wycliffe. The theory is found complete in the work of Richard Fitz Ralph, Archbishop of Armagh from 1347 to 1360, in a tract entitled "De pauperie Salvatoris" or "De paupertate Christi" as d'Ailly calls it. The date of the "De pauperie Salvatoris" has been established by R.L.Poole in his introduction to his edition of the "De dominio divino" of Wycliffe as being somewhere between 1350¹ and 1356.

D'Ailly is now in a position to refute the statement, which he ascribes to Armachanus, that without grace no one can be just lord of anything. Though he has answered the theory by implication from his previous argument, d'Ailly adds further proofs against it.

Armachanus, according to d'Ailly, says that in losing the gift of grace by sin at the Fall, man lost all dominion with it, both natural or original dominion and civil dominion

1. Wycliffe, De dominio divino, ed. for the Wycliffe Society by R.L.Poole, preface p.xxxvi.

¹
alike. D'Ailly refutes the statement by arguments from Scripture - "Be ye subject to your lords, not only to the good and gentle, but also to the froward," ² where, he says, the Apostle is speaking not only of masters being in a state of grace, but also of infidels and others in a state of mortal sin. Again, Esau was not deprived of his temporal dominion because he was not of the elect with regard to the future life. Such salvation or damnation is irrelevant to the holding of dominion.

Then he turns to secular custom for his illustration. He who is ungrateful or disobedient to his overlord is not always deprived of his temporal dominion on that account; he who is in a state of mortal sin is ungrateful and disobedient to God, yet he is not always ^etherefore deprived of his dominion.

Finally he raises a practical objection to Armachanus' theory. Were grace necessary to lordship, he says, nobody could know whether he were just lord of his property or not, since according to Ecclesiastes ix,1, none know whether their deeds are worthy of love or of hate.

A just man, he says, can be just by moral justice, and not by any justifying grace. Here he obviously means what

1. See De pauperie Salvatoris, lib.ii, cap.11.

2. I Peter, ii, 18.

he states in full in the "Utrum indoctus etc." that there have been just men and legitimate rulers among the heathen and the infidels, who cannot be said to have received any justifying grace. Finally he says even if it were true that no dominion could be just without justifying grace, there is yet a distinction between being a just lord or having dominion justly and being a just man. His conclusion is that grace is unnecessary to just dominion.

Having shown that the Will of God is the source of all dominion in man, good or bad, d'Ailly shows that it is expressed in legal and constitutional arrangements. This fact, he says, accounts for the existing laws of succession, by descent in kingship, by election in the Empire and the Papacy, etc. He concludes that no law conferring dominion over anything is valid or just unless it be understood that it is so only with the divine approval.¹ Without such approval the law of primogeniture itself would be invalid.

Further the Will of God not only can, but usually does express itself through legal forms. This does not mean that

1. Nulla Lex utiliter dictans alicui debere dominium alicuius rei dominabilis, est vera aut iusta; nisi intelligitur cum circumstantia divinae approbationis. Op.Gers.I,col.644.

the Will of God is not sufficient in itself to create a just title, but normally no dominion is to be recognised as valid unless it is accompanied by an obvious title, which is the sign of divine approval. This statement, says d'Ailly, may be construed into throwing a doubt upon all dominion from the point of view of the average man, since no prince has a title which we know absolutely to be valid. D'Ailly denies that this follows, and says that in such cases probability is the final¹ test.

Once the prince has succeeded to or has obtained dominion, it is his work to rule his subjects by means of good civil laws and to direct them to the political end of this life² by the moral virtues.

The work of the spiritual overlord is quite different. He rules his flock by divine law, and directs them to the³ ultimate end of the future life. Just as his duty differs from the temporal prince's, so does his ecclesiastical power

-
1. ..sufficit scientia probabilis coniecturae, et illa hic habetur et sic antecedens non est verum. Op.Gers.I,644.
 2. Et ad Reges temporales pertinet principaliter de per se, et proprie subiectos regere per leges studiosas, non quoscumque, sed per leges humana, civiles seu politicas et per virtutes morales eos ordinare ad finem politicam huius vitae. Ibid. 678.
 3. Ad Sacerdotes principaliter, et de per se pertinet eos regere per Leges divinas, et per virtutes heróicas eos ordinare ad finem ultimam vitae futurae et salutis eternae. Ibid. See also his statement in col.652 that prelates are "non quasi dominantés in clero" (I Pet.v.3) but as examples to their flocks.

differ from dominion. He needs the gift of "ministerium" rather than the gift of dominion from God, - d'Ailly has already explained how they are distinct.¹ It has, he says, been argued against his differentiation that the priestly power may also be regarded as regal, as in the case of Melchisidech, and so may be dominion proper. D'Ailly denies that it can be regal, except in the case of Christ, Who is at once King and Priest; any other instance merely proves that the two powers may concur in one person. It has also been said that there is no reason why the princely power should be called dominion any more than the priestly power is, since the temporal prince is also the minister of God. While allowing that this is so, d'Ailly denies that the fact removes the fundamental difference between king and priest; as he has said, proving his point from Scripture² and especially from the first Epistle to the Corinthians, the priest has the gift of "ministerium", not of dominion, which is unsuited to his function.

In the second tract "Utrum indoctus in iure divino possit iuste praeesse in ecclesia regno", d'Ailly applies his

1. See supra, pp.103-104.

2. "Quid est Paulus, quid est Apollo, nisi minister eius cui credidistis?" I Corinth.iii,4. (Verse 5 in Authorised Version)

theor^e concerning dominion, its justification and basis, to the Church. The question before him is, how far may an ignorant man be justified in holding high office in the Church. In answering it he assumes that the same principles apply to "ministerium" as to dominion. It has been argued, he says, that since an unjust man may rule justly, it would seem that a man ignorant in divine law may, since ignorance would seem to be less of an obstacle to just dominion than injustice. It has also been said that the Church promotes far more legists and canonists to high office than it does theologians: and it would seem absurd to condemn such promotions as unjust. Also, say some, if a prelate who scandalises his flock may rule justly, so can one ignorant of divine law. For instance, it is claimed that in the case of the Schism the holder of the papacy is ruling justly though a great part of Christendom is scandalised thereby. If this were not so, the Pope would be bound to resign in order to abate the scandal, - which to many seems absurd.¹

Having quoted these arguments, d'Ailly goes on to prove his own case. According to Matthew xiii, 52, every Scribe

1. Such a view would probably be general at the time when the tract was written. There was little enthusiasm for the way of cession till the University took it up in 1394,

must be like the head of a family who brings out of his ^{who} treasury things both new and old; this, says d'Ailly, means that every priest must have a store of knowledge of both Testaments, and it must be assumed, therefore, that he who holds high ecclesiastical office must be learned in both.

He contradicts the statement that since an unjust¹ man may rule justly, a man who is no theologian may do so. A man unlearned in theology cannot rule justly in the sense of without sin, since he lacks essential knowledge, and must perjure himself at his ordination when asked, "Scis utrumque Testamentum?" Arguments to prove that a knowledge of secular law or canon law is sufficient or is even more useful than a knowledge of theology are quoted and demolished one by one.² For d'Ailly, theology is the science par excellence,² by which all questions appertaining to ecclesiastical politics are to be decided, and is the knowledge absolutely necessary to just lordship in the Church. Civil and canon law, he says, in his³ "Principium in cursum Bibliae", are as it were double edged, and many there are who study them or teach them who use them

1. Op.Gers.I,cols.653-654.
2. Op.Gers.I,cols.655-656.
3. Op.Gers.I, cols.610-617.

to the confusion of peace and the condoning of sin, and who rejoice in the tears of the widow and the orphan and the wretchedness of the poor. Others there are who realise that human law is transient while divin¹law is most perfect, but these, alas, are few. Theology is at once the most perfect and stable science, while human law is imperfect; theology is complete, while human law is not. Hence his insistence on the importance of theology.

D'Ailly's discussion of the particular question of theological qualifications widens into a general discussion of the character of a true prelate. Three things, he says, are required of him; he must be worthy of the Kingdom of Heaven, and so should live justly in the sense of virtuously; he must be learned in the Scriptures; and he must not sully his office by scandal.

The position of the prelate is considered from three points of view: with regard to those from whom he receives his authority, either God, as the ultimate source, or man, as the intermediary; with regard to those over whom he has such authority; and with regard to himself. In discussing the first of these relationships, that between the prelate and God, d'Ailly

1. ...clarum est divinam Legem ceteras praecessisse. Op.Gers.I,
col.647.

shows that here, as in temporal dominion, the authority of good and bad alike is from God, directly or indirectly. He illustrates his point by refer^ring to the Devil, who is supremely unjust and obstinate in wrongdoing, yet he holds dominion justly from God, not only for the punishment of sin, but also for the proof of virtue. A quotation from St Augustine to the effect that the power of evildoers is from God alone closes the discussion of the authority of the prelate related to its ultimate source.

With regard to those who choose him or install him in such authority, we are told that an unjust man may rule justly; if such believe him to be worthy after careful consideration, and in that belief choose him as worthy, then his authority with regard to them is quite just, that is, quite legitimate and indisputable.

Thirdly, with regard to his subjects, an unjust man may rule justly, by way of punishment, as has been said. St Augustine is quoted as saying that the subjects of a bad master come to no harm, save on account of their own sin. If they are virtuous, their affliction is but a trial of their virtue. The good man, though he be a slave, is free; the bad man is a slave, even though his status be that of a king.

With regard to himself, says d'Ailly, the position of the unjust man calls for further definition; and here d'Ailly¹ gives a clear statement of what he means by "iuste praeesse". The phrase, we are told, may mean to rule by a just title, and not by fraud or violence; or it may mean to rule justly in the sense of well. Speaking of ecclesiastical dominion, or "ministerium", d'Ailly says that in the first sense an unjust man may rule justly; he may acquire a just title and the authority it implies. If those who choose him do so blinded by error, they nevertheless give him the "ius praelationis", and so long as the Church suffers him all the honours due to his position are due to him from his subjects.² This involves an emphatic denial of the right to rebel on the part of the faithful against one whom they regard as an unfaithful pastor. In the second sense, we are told, the unjust man cannot rule justly; he is degrading his office by the evil of his private life, just as the Scribes did, and thus he rules unjustly, even "damnabiliter", since through him the Church is dishonoured and the truth is brought into contempt. The author lays down as a general rule that the ruler (dominus) should be the example of

-
1. He defines an "unjust" man as one who lacks the "gratia gratum faciens" and so is in a state of mortal sin; he is more or less unjust according to the measure of his sin alone.
 2. ...quamdiu ab ecclesia toleratur, omnia (-Op.Gers.I,col.647 quae ad praesidentem pertinet, a sibi subditis debentur.
- Op.Gers.I, col.649.

his people; he should be their head in the sense of their director and guide, and should therefore be blameless.¹ The unjust man is a "caput languidis", a blind director, a false guide, and his pretence to rule others is mere presumption and blind ambition, as Aristotle says. He needs the guidance of others, and his rule will therefore be bad.

D'Ailly finally sums up his statements concerning dominion. For a man to hold dominion justly, justification by good works is as unnecessary as is final predestination; what is necessary is the free gift from Christ of dominion, or in the case of the prelate, "ministerium." The right to dominion is quite distinct from the worthiness of dominion. There is no reason why dominion or "ministerium" should be denied to the sinner, but it can be proved that only the virtuous are truly worthy of dominion. D'Ailly's final decision is that the sinner does not deserve dominion in the way of strict divine justice, but God may extend to him His infinite mercy which applies to the worst of men.

The most striking points about d'Ailly's theory of dominion are, firstly, his insistence that all dominion requires the approval of God,² just as the rule of all earthly bailiffs

1. C.p. supra, p.97.

2. Quodlibet aliud dominari, vel exercitium domini, quod non procedit ex gratis communicato dominio, vel concessio ministerio est iniuste dominari. Op.Gers.I,652.

requires the ⁿmandate of their overlords, and his distinction between the "approbatio proprie dicta" and the "approbatio permissiva"; his complete separation of the right to rule from worthiness of dominion; and his insistence that once appointed, the ruler, or at least the prelate, is to be unquestioningly obeyed "as long as the Church tolerates him". In any case, his subjects are not to judge him, or to take any steps towards his deposition. That the "powers that be are ordained of God" and are to be obeyed as such, was d'Ailly's belief as much it was that of that of the Christian Fathers and St Augustine. His theory is fundamentally patristic.

Closely connected with d'Ailly's theory of dominion and its relation to the just and the unjust man is his discussion of the nature of justice itself. This is to be found in his "Speculum considerationis" and his "Compendium contemplationis".¹ In discussing justice in man, he gives the Aristotelian classification of the virtues into "intellectuales" and "affectuales", and says that it is to the latter class that justice belongs, which is related to feeling or appetite, or, more particularly, to will. The moral virtues, as the "virtutes affectionales" are called, have their origin in good custom, "ex more". All moral

1. Tractatus et Sermones, Argent. 1490.

virtue is directed to the pursuit of some good, or the avoidance of the opposite evil; all good towards which human custom is directed is useful, honourable or delectable. D'Ailly's conclusion is that justice, most of all commutative justice, consists in the virtuous behaviour of any man with regard to the common good.¹

These attributes of justice being considered, it must belong to the "vita activa" only, not in any way to the "vita contemplativa". This d'Ailly says when discussing the "four cardinal virtues" as he calls them, - prudence, temperance, fortitude and justice.² These virtues regulate man's attitude and relationships to life and to his fellow men, and their manifestation varies according to the relationships in which they are being exercised. They have a stabilising effect on the soul, - prudence guards against ignorance, error and curiosity, temperance guards against superfluity or insufficiency fortitude holds the balance against adversity, and justice is shown towards our fellow men, preventing their injury and

-
1. Et hae (virtutes) morales vocantur, quia ex more, id est ex assuefactione et boni operis consuetudine generantur. Quarum distinctio et sufficientia sic assignatur, quia omnis moralis virtus respicit aliquod bonum tanquam obiectum persequendum vel eius oppositum tanquam fugiendum. Omne autem bonum circa quod versantur mores hominum aut est utile aut honorabile aut delectabile. Si quis ergo virtuose se habet circa utile aut circa utilia communia. et sic est iusticia et maxime commutativa, quia capiendo large iusticia ad multa alia se extendit. Spec. cons.
2. Ibid. There is no evidence as to where d'Ailly got this "Platonic" classification of the virtues of the soul from.

prompting us to help them. It is the function of justice to combat man's malignity, and to give satisfaction with regard to past action, just as prudence prevents future ills.

D'Ailly finally prefers the division of the virtues made by later Christian writers. He quotes the opinion that justice is contained in two precepts simply, - to do good to all and injury to none, - which are two precepts of natural law. He himself says that justice is a distributive virtue, directing man's actions in his various relationships, both with God and with his fellow man, - obedience due to superiors, discipline due to inferiors, equity due to equals, truth and faith due to all. Respect and affection between relatives, gratitude to benefactors, retribution for injuries inflicted, pity for the afflicted, all these are part of moral justice as d'Ailly describes it. With regard to the duty owing to superiors, there is that duty owing to God alone, such as that observance or worship which, says d'Ailly, is called by some "religion". Just as there is a special duty owing to God, there is a special duty to human superiors, - service, "servitium". Reverence and obedience are both due to God and man alike, in various degrees. The elucidation of these relationships in themselves, says the author, would need a whole work, but he must pass them over for

university, without which there could be no proper study.

the sake of brevity.

He passes on to an explanation of discipline or correction. This may be exercised in the way of justice by man towards himself by general mortification of the flesh. It is also due from him to his neighbour, as expressed in fraternal correction. It is due from all princes to their peoples, in two kinds; either spiritual discipline, exercised by the Church in the excommunication of the contumacious, or temporal, exercised by the magistrate in the punishment of crime by the temporal sword.

Equity, the love of equality between equals, where equality should be, is vitally necessary to the administrators, to merchants in their commercial dealings, and to judges in their judicial duties.

In his analysis, d'Ailly has more or less followed the Aristotelian division of justice into commutative justice between equals and distributive justice between inferiors and superiors. It is clear that he regards justice as determined solely by circumstances and relationships. Though he does not give any comprehensive definition himself, his idea of justice may be defined as the will in God or in man directing all human relationships to good. It is practically the mainspring of the universe, without which there could be no proportion kept.

Though the ruler in both Church and State ought to possess this attribute of justice, it is no part of the duty of the individual to take the law into his own hands if he considers that the ruler has in any way been remiss in his duties. That d'Ailly believed this is shown by his attitude towards the case of Jean Petit which came up before the Council of Constance during the years 1415 and 1416.

On November 23rd 1407, the Duke of Orleans was murdered in the Rue Barbette in Paris at the instigation of his rival and mortal enemy, the Duke of Burgundy. In due course the Duke of Burgundy, who made no secret of his guilt, was called upon to defend himself in the King's Council. This he did through Jean Petit, a Doctor of the University of Paris, whose patron he was, and who produced a philosophical, or rather a dialectical justification of a particularly brutal political crime. The position of the Duke of Orleans in France as the King's brother and practically regent during the King's periodical attacks of insanity raised the whole question from one of private murder to one of what Jean Petit endeavoured to prove was tyrannicide.

Jean Petit produced his "Justificatio Ducis Burgundiae" on March 8th 1408. He laid down certain truths, which, he

claimed, not only demonstrated that the Duke of Burgundy was amply justified in what he had done, but also that the King of France should be grateful to him for having done it. He tried to prove that every subject who conspires against his King by cupidity, treachery or witchcraft is worthy of the "double death"; that his guilt is increased if he stands high in the social scale or is related to the King; that, in such a case, any other subject not only can, but also ought to slay the said conspirator, whom the author calls the "proditor et infidelis tyrannus", and that the merit of having slain him is greater in one of the blood royal than in any other; that any engaging in any agreement or oath is no longer bound by it if it turns to the detriment of himself and his family or of the King and his family; and finally that any treachery is allowable against the "tyrant" aforesaid, - not only is it allowable, but it is meritorious to entrap him by any sort of ambush or flattery. The application of these ideas was easy. Jean Petit endeavoured to prove that the Duke of Orleans had been guilty of all kinds of treason against the King's person, including witchcraft, though his crime was the more heinous in that he was the King's brother, and that it was therefore the duty of Burgundy, the King's cousin, to slay the Duke of Orleans as a tyrant. He

justified his definition of a tyrant by an appeal to St Gregory¹ and ingeniously twisted it to apply to the Duke of Orleans. The statement of the illegality of a treasonable oath justified the Duke of Burgundy's attack even in the face of the fact that he had sworn eternal amity and had taken the Sacrament with his victim a few days before the crime. The position of the Duke of Burgundy made it impossible for justice to be done against him, in spite of a touching appeal which the widow of the murdered man made to the King. Though the theory of Jean Petit carried no conviction with it, and though in February 1414 nine of Jean Petit's assertions were, at the instigation of Gerson, condemned by the Bishop and certain Doctors of Paris to be burned, though the consent of the King himself was given to this sentence, the Duke of Burgundy appealed to Pope John XXIII.

Thus the case came before the Council of Constance in June 1415, though Jean Petit had died four years before. The Council dared not imply any condemnation of the Duke of Burgundy, and so they recast the theory of Jean Petit in

-
1. Tyrannus est proprie qui non dominus reputatur, non iuste principatur, aut non principatu decoratur. Nam sicut rectus principatus dicitur, sic dominium perversum thirannus nuncupatur. Op.Gers.V,col. The whole of volume V is devoted to Jean Petit's tract, the circumstances in which it was written, and the events and discussions resulting from it. The account of the murder is taken from the Chronicle of Enguerrand de Monstrelet tom.I, q.v.

general terms¹ and condemned it vaguely on July 6th 1415.² It was here that d'Ailly showed his disapproval of Jean Petit's work and all it implied. He, together with Gerson, tried to get a more definite condemnation from the Council. The whole of the proceedings, and his speeches and writings on the matter are given in Volume V of Ellies Dupin's edition of the works of Gerson.

The form of the condemnation is, to say the least of it, pusilanimous.³ D'Ailly's attitude is quite uncompromising: he considered that the Duke of Burgundy was a son of the Church, and as such, could be reprimanded by her whose arm⁴ was long enough to reach the highest. His declaration runs as follows:- "I, Pierre, Cardinal of Cambrai, as a Doctor of Theology, here called upon to give testimony to the truth,

1. They used Gerson's precis of Jean Petit's propositions "ainsi mise generallement pour maxime" by him in September 1413: - Quilibet tyrannus. Potest et debet licite et meritorie occidi per quemcunque vassallum suum, sive subditum, etiam per insidias et blanditias vel adulationem, non obstante quocunque iuramento, seu Confoederatione factis cum eo, non expectata Sententia, vel Mandato cuiuscunque Iudicis. Op.Gers.vol.V,col.56.
2. Von der Hardt, vol.IV,col.489.
3. Hanc autem sancta Synodus declarat quod per praemissam condemnationem novem Propositionum, vel etiam per condemnationem nuper factam de illa Propositione: Quilibet tyrannus etc. Eadem sancta Synodus non intendebat, nec intendit Iuri alicuius personae, seu famae ipsius...cum nullus particularis assertor seu deffenso earundem...fuerit...accusatus. Op.Gers.V,col.360.
4. C.p. his reference in the De materia Concilii generalis to the Church "quae sola potest audacter et intrepide omnes corrigere" apparently by means of a General Council. MS 1571,f.73.

declare and by my oath affirm that I firmly believe and in nowise doubt that any one of the said nine assertions is to be condemned in the above form...It is obvious that this doctrine and the like is to be condemned...as erroneous in faith and morals, as heretical, scandalous, seditious, and as preparing the way for fraud, deceptions, lies, betrayals and perjuries; and those who persistently proclaim this most pernicious doctrine are heretics, and are to be punished as such according to canon law. In testimony of which I subscribe myself with my own hand.-"¹ He also declared that the doctrine offended against the laws "Thou shalt not kill" and "Thou shalt not bear false witness" as well as against many other laws of the Scriptures and of the Fathers. St Augustine, in particular, is quoted as forbidding the homicide even of robbers and criminals without authority. The doctrine of Jean Petit, says d'Ailly, is the more to be condemned in that it is worse than Wycliffe's doctrine² that peoples can punish their offending rulers. There is d'Ailly's criticism of the whole theory in a nutshell: he entirely disapproves of the appeal to force on the part of the subject, whether in Church or State. Though he produced a great deal on the subject in the Council, he never expressed himself in

1. Op.Gers. V,col.474.

2. Item, dicta doctrina multo magis est condemnanda, quia multo peius circumstantionata est, quam illa damnata Propositio Iohannis Wicleff, quae ponit quod populares possunt ad eorum arbitrium Dominos delinquentes corrigere. Op.Gers.V,col.474⁵

more detail, - indeed John of Falkenburg, whose tract "Contra Polonos" on the same lines as that of Jean Petit, advocating homicide in certain cases, was also condemned, points out that a declaration on oath is no argument, and says that to try to refute argument in this way is at once ridiculous and dangerous. For the purpose of ascertaining d'Ailly's real views, however, such a declaration is more valuable than any argument. D'Ailly evidently considered the position of the secular ruler as sacred from the vengeance of the private individual as that of the prelate.

Just as d'Ailly considered dominion to be founded in the Will or permission of God, so did he consider that other human governmental institution, law, as based on the Divine Will. God, he says, is the source of all law, and His Will is the "lex prima seu regula" when expressed through forms of human or natural law which man can understand.

He discusses the question most fully in his "Quaestiones² super primum, tertium et quartum Sententiarum" and his "Quaestio³ in vesperiis" in which he proves that the law of Christ is the perfect law for all mankind. The argument is centred in a discussion of the relation between the Will of God and law,

1. Op.Gers. V,col.1014.

2. Argent. 1490.

3. Op.Gers.I,cols.662-672.

which can be compared to his account of the relationships between the Divine Will and dominion. Just as the Divine Will is the first efficient cause of all things, he says, so it is the fundamental binding law;¹ there is no power save from God, and no law has in itself the power to bind man to keep it. No positive law can be said to be the fundamental law, for that is the Will of God. St Augustine is quoted in support of the argument; "The Eternal Law is the Divine Mind or Will, commanding obedience to the natural order of things and forbidding its disturbance."²

The Divine Will is therefore binding in itself, and needs no other law to supplement it. Consequently no law is binding apart from the divine Will, any more than a secondary cause can act without the first. No other law can add to it or contravene it, and hence no false doctrine like the law of Mohammed, or the literal interpretation^t of the Mosaic Law can be valid.

Against one Frater Jacobus, d'Ailly asserts that this divine law has essentially the character of will. Jacobus

-
1. ...in genere legis obligantis est lex prima seu regula.
 2. Lex eterna est divina mens seu voluntas ordinem naturalem servari iubens, turbare vetans. Contra Faustus, xxii. Op. Gers. I, col. 662.3

objects that justice and rectitude are more proper to intellect than to will, and that the Divine Reason is thus nearer to law than is the Divine Will. D'Ailly answers this by proving that the Divine Will and the Divine Understanding ("intellectus") are substantially the same. Jacobus objects that according to St Augustine, "The Eternal Law is supreme reason, which must always be obeyed."¹ D'Ailly answers that whatever is in accordance with the Divine Will must be in accordance with the Divine Understanding, and vice versa. Whatever Jacobus may say, according to the saints and the doctors, law is more proper to will than to the Divine Understanding.

Jacobus then denies that there is a fundamental law apart from the first law instituted ("lex primaevitatis institutionis"), and that a fundamental positive law does not exist. D'Ailly uses his analogy from cause and effect again: as there is a fundamental cause that was never created, so there is an increate fundamental law, the Divine Will.

Jacobus finally objects that the legislator and the law have authority to bind in different ways. The legislator binds by the authority of the office he holds, but the law, respectively. "Legislatorum auctoritas est officialis, quia non est alia auctoritas, nisi ipsa est lex obligatoria, quia non est alia, nisi ipsa est lex obligatoria. Principium in prima institutione."

1. Lex est summa ratio cui semper obtemperandus est. De libero arbitrio, liber 1.

though it commands obedience on account of its inherent rightfulness, is yet dependent on the Prince for its execution; it is binding, says d'Ailly, "virtualiter et consecutive". In spite of this difference, says Jacobus, the name of law is sometimes given to the source of law. Hence he argues that the Divine Will is the primary source of law, - "conditor legis"- but is not the primary law itself. D'Ailly answers that the Divine Will is binding on all men, yet it is in no sense the "conditor legis". None are bound save by law, yet all are bound by the divine Will without any further law, save the manifestation of it.

The Divine Will, as law, exists in two kinds, and is binding in various degrees. The first kind, the "velle non obligans", is the efficient Will simply, such as causes the fact of the sun's rising; the second, the "velle obligans", entails a command. Whereas the first is the first cause in that it wills that such a thing should be, or be done, the second is the first law, because it wills that such a command shall be given.¹ That command is binding on all rational creatures. Here d'Ailly explains what he means by "obligari" and "teneri" respectively. "Obligari" means to be bound (teneri) to be or

1. Sicut divina voluntas est efficiens causa, quia vult aliquid esse vel fieri, sic ipsa est lex obligatoria quia vult aliquid esse, vel non esse teneri. Principium in primum Sententiarum.

not to be certain things, or to have certain dispositions. "Teneri" means to have certain orders or prohibitions from a superior, concerning a matter over which the subordinate has free will. The distinction is that between absolute law such as the physical laws of the universe, and laws to which obedience is dependent entirely on the willingness of the subject to obey, such as moral or political laws.

D'Ailly's statement that the Will of God is a "lex obligatoria" is disputed by one Magister Egidius. He denies that the Divine Will is binding in itself, on several grounds. Man may be bound by other forces than God; d'Ailly denies this and says that there is no true obligation save from God. Christ gave authority to His prelates because, according to His own words, whoever should listen to them should listen to Him, - "he that despiseth you despiseth me; and he that despiseth me despiseth him that sent me." ¹ Egidius objects next that just as there is some dominion which is not of divine law, so are some obligations not of divine law. D'Ailly, as might be expected, here uses the argument he has developed in full in his theory of dominion, and says that such obligations or dominion are "a deo approbante". Thirdly, says Egidius, there

1. Luke x, 16.

are many unjust obligations which it is really sin to fulfil: d'Ailly answers that in such cases there is no obligation, since no injustice is binding. Again in the course of his argument Egidius uses an analogy from political institutions. The supreme overlord ("perfecte dominus") cannot be given more complete powers ("amplius fieri non potest dominus"); similarly the perfect obligation by divine law cannot be made more absolute, and hence any secondary obligation following the divine law without being able to add to it would seem superfluous. In answering, d'Ailly shows how the perfect law is expressed through human law; with regard to dominion, an overlord having complete authority may be given fuller powers, contrary to what Egidius has said. If more than one man has dominion over the same thing or estate, as in the case of the King and his Baron, then, should the two dominia concur in one man, his dominion would be fuller than it was before. D'Ailly here quotes his old enemy, Armachanus, to prove that dominion is more or less complete according to the greater or less authority attached to its exercise or use. Finally, says d'Ailly, the secondary obligation of which Egidius speaks cannot be superfluous, else would all secondary causes be superfluous likewise.

Having proved that the Will of God is in itself a binding law, d'Ailly explains that there are limits to the restrictions it may impose on man. The Divine Will cannot bind man to the impossible - it is not even likely that man should be required to will the impossible. He is called upon to repent of his sin, but not to wish that the sin had never been committed; such a wish is futile since it is impossible to recall the past. The possible, however, may be construed in a wide sense as that which it is possible for man to do only with the assistance of faith.

Having discussed the effective cause of all law, he proceeds to define and analyse law more particularly, and proves that just as the Divine Will is the most perfect law of rational creation, the law of Christ is its most perfect expression. This argument, first put forward in the "Quaestiones super Sententiarum", is repeated almost word for word in the later tract produced by d'Ailly "in suis vesperiis" for his doctorate. He will, he says, first discuss the term "lex", then the term "lex divina" and finally the "lex Christi seu regula".

Law may be increate or created. Increate law is that defined by St Augustine in the texts already quoted, as the law of God. Created law is that which is made by man. Lex est constitutio divina. Dist. I. Lex est constitutio populi quae maiores nostri sicut sui plures aliquid sanxerunt. Ibid. II. Op. Jers. I. col. 665.

Divine Mind or supreme reason. Created or positive law is the "signa primae legis" by which man understands the Will of God. Cicero is quoted as an illustration - "Law is nothing but the reason derived from God, commanding that which is right and forbidding the opposite."¹ Created law may mean any such law in a general sense, natural, human or divine law, written or unwritten. Cicero is taking it in this sense when he says that "Law is the command to do right, and to suppress evil."² D'Ailly also takes his definition of natural law from Cicero's *De legibus*, - "Law is reason implanted by nature as a command to do certain things and avoid others."³ For a definition of human law, d' Ailly goes to Gratianus - "Law is a written constitution" and "Law is the constitution of the people; a sanction at once by the senate and the plebs."⁴ The use of the term can thus be general or particular, he concludes.

It is interesting to compare these definitions of law with his later ideas on the subject. In his "*De Ecclesiae etc. potestate*" he says that natural and divine law may be broadly interpreted as being that which is in agreement with natural

-
1. Lex est nihil aliud quam recta ratio a nomine tracta a deo derivata imperans honesta prohibensque contraria -Philippicis.
 2. Lex est recti preceptio pravique depulsio - Lib.de nat.deorum.
 3. Lex est ratio insita a natura quae iubet quae sunt facienda: prohibetque contraria. -De legibus.
 4. Lex est constitutio scripta -Dist.I: Lex est constitutio populi qua maiores natu simul cum plebibus aliquid sanxerunt. Ibid.II. -Op.Gers.I,col.663.

reason, and which is contained implicitly or explicitly in¹ the Scriptures. He places both these kinds of law above any other; franchises conferred by natural and divine law cannot be taken away by positive law, which is human, and therefore imperfect.² Similarly, in discussing the relationship of the Prince to law, he says that the Prince is "legibus solutus" only in the sense that he cannot be bound by the laws which he himself has made; he is not exempt from divine law or from the divine authority of the Church.³ His praise of divine law in the sense of theology in contrast to mere human law has already been quoted.⁴ He also mentions customary law in the "De Ecclesiae etc. potestate"; speaking of the rights of precedence enjoyed by the Cardinals he says that though there is no law on the matter, it is sufficient that it has been so ever since within the memory of man.⁵

These definitions are followed by an analysis of the characteristics of perfect law. Law to be perfect must

1. ...large sumendo Ius naturale et divinum pro omni illo quod ex suppositione est naturalisationi consonum, et in divinis Scripturis explicite vel implicite comprehensum. Op.Gers.II,
2. ...iura positiva non possunt ab Ecclesia absolute (col.930 tollere illam potestatem quae ei competit divino et naturali Iure. Op.Gers.II,col.113.
3. De materia Concilii generalis, MS 1571,f.
4. See supra pp.112-113.
5. ...sic est receptum a tempore, de cuius contrario non est memoria...Nam tale tempus habet vim Legis...Op.Gers.II,col.

be "praeceptio rectissima", that is, it must order only those things which are in accordance with the Divine Will; it must be "credendis certissima" and so must teach nothing contrary to reason; it must be "meritis gratissima", that is, if the omission of a certain observance is to be accounted a sin, the performance of that observance must be equally accounted a virtue; finally, it must be "praemiis iustissima" and the rewards must be proportionate to the punishments. D'Ailly proves that the law of Christ is all these things, but first he quotes certain arguments to the contrary. It has been argued, he says, that the law of Christ is not "praeceptio rectissima" since it orders many things which do not get done, and it forbids much evil which is done nevertheless; as everything is done in accordance with the Will of God, the "lex Christi" is forbidding the fulfilment of the Will of God. It is not "credendis certissima" since many of its essentials, such as the doctrine of the Holy Trinity, are contrary to reason. It is not "meritis gratissima" since to believe is accounted no merit, while scepticism is a sin. It is not "praemiis iustissima" since those who are damned suffer tortures out of all proportion to the joys of the blessed, since they suffer once in being deprived of those joys and once again in their own positive torture in Hell. D'Ailly refutes all these arguments at length in his "Principia" to the first,

omnis enim qui creatura rationalis assentit doctrinae
Christianae veritatibus. Principium in primo Sententiarum,
and Op. Gers. I, 234.

second and third books of the Sentences respectively. He also adds that perfect law must be the work of the perfect legislator, and that since Christ is the Perfect Legislator, His Law is the most perfect of all. He defines the law of Christ as revealed¹ in the New Testament.

Neither natural, human nor Mosaic law is the perfect law, says d'Ailly. Natural law fails because no man can naturally understand the truth without faith, according to the scriptures. Faith is vitally necessary to perfect law - even the law of Christ, oral written or mental, is not perfect unless it is imparted by faith - unless we believe, we shall not understand. All men are bound to believe unless they are incapable of belief, and the only people to whom belief is impossible are children, madmen and deficient. Thus does d'Ailly reach his conclusion that the law of Christ, as he has just defined it, is the only law which is the perfect manifestation of the Divine Will, the primary and essential law, and so is the only perfect law existent.

That there is a close connection between d'Ailly's ideas on the subject of government view^ed as dominion, as the expression of justice and as law becomes clear on comparing the

1. Igitur proprissime lex Christi potest dici fides infusa vel actus eius quo creatura rationalis assentit doctrinae Christianae veritatibus. Principium in primo Sententiarum, and Op.Gers.I,664.

underlying principles of what he has to say on these various points. For him the enjoyment of authority, justly or unjustly, by any man, implies the concurrence of the Will of God, directly in the case of the just ruler, indirectly in the case of the unjust. This Will of God, expressed through certain forms that derive all their significance from the presumption that they are in accordance with the Will of God, underlies not only the fact of a government's existence, but also the rules by which it governs; God's Will is the fundamental law. No law is true law unless based on the Will of God, just as no dominion is valid unless it is based on the gift of God. Just as the Will of God with regard to dominion expresses itself through various constitutional forms, so does the Will of God as law express itself through human forms which man can understand. That Will, the perfect manifestation of which is the law of Christ, is indicated through the lower forms of natural and human law. In both cases there has to be some appeal to man's weaker understanding - he must be reached by something he can comprehend, through the laws of succession in the case of dominion, or through the lower forms of law. The law of Christ cannot be grasped by man without the exercise of faith.

D'Ailly's idea of justice forms an integral part of

his theory of government because, having described it as a kind of moral integrity which need not necessarily be Christian, he can use it to confute such arguments as those of Armachanus and Wycliffe. They maintained that grace was a sine qua non of just dominion; d'Ailly said that this was not so, since there had been many just rulers among the heathen, - and he seems to mean just in the sense of righteous as well as rightful. He appeals to the "Venerabilis Doctor Guillelmus Ockam" in his "Quaestio in vesperiis", who proved admirably well, he says, that many who were heathens were true Emperors, ruling with integrity, and that true dominion can belong to the infidel and so to the sinner. D'Ailly's conception of the ruler and of dominion enables him to justify the rule of one such as Augustus, or of a Nero or a Caligula, or of a Constantine; but of these he would call only the first and the last just men. complete knowledge of Catholic truth, including the saints, or all who understand such truths "enigmatically" or imperfectly.

D'Ailly himself defines the Church Militant as the community of mortal men having an intuition of Catholic truth.

1. Op.Gers.I,cols.662-672.

2. Ibid.,col.665.

3. ...Ecclesia sumitur pro hominibus in mortali corpore naturaliter viventibus, et universaliter communibus veritatibus. Ibid., 665.

1. Op.Gers.I,col.650.

PART II.

CHAPTER II.

THE CHURCH AND ITS HIERARCHY.

In his account of the ecclesiastical polity, d'Ailly appropriates considerable authority to the community of the Church, working through its representatives. A clear definition of exactly what he means by the Church is therefore a necessary first stage in his argument. This he gives in his "Quaestio in vesperiis" in the course of his discussion as to whether the Church of St Peter is directed by law.¹

The expression "the Church," says d'Ailly, has been interpreted in many different ways.² It may mean the material temple simply; or it may mean any rational creature in whom the Spirit of God dwells. It may mean the community of such rational beings, either the Church Triumphant of all having complete knowledge of Catholic truth, including the saints, or all who understand such truths "enigmatically" or imperfectly.

D'Ailly himself defines the Church Militant as the community of mortal men having an intimation of Catholic truth,³

1. Op.Gers.I,cols.662-672.

2. Ibid.,col.665.

3. ...Ecclesia sumitur pro hominibus in mortali corpore naturaliter viventibus, et enigmatice cognoscentibus Catholicas veritates. Ibid.,665.

that is to say the Church Universal which has Christ as its Head, outside the community of which there is no salvation. From one point of view this may include only men now living, - the "congregatio fidelium actu existentium" - or it may mean all the faithful since the birth of Christ in contrast to the Mosaic Synagogue. It is in this sense that St Augustine is using the word when he places the authority of the Church above that of the Evangelist, who is merely a part of it. Again, says d'Ailly, the Church may include all the faithful from the Creation to the end of the world, including the Mosaic Church, and those who were "under natural law" - presumably he means by this the Gentiles who are spoken of as being "a law unto themselves" in Roman ii,14. Again the authority of St Augustine is appealed to when he said that the Church extends from the time of Abel to the end of the world.

On the other hand, the Church Militant has sometimes been taken as a particular church; in this sense it may mean any congregation of the faithful, men and women, as for example "the Church in Babylon" of I Peter,v.13. The term has even

1. been construed as the body of the clergy, but this construction, according to d'Ailly, is not warranted by the Scriptures, though the clergy have appropriated to themselves the name of the Church.
2. according to d'Ailly, is not warranted by the Scriptures, though the clergy have appropriated to themselves the name of the Church.

calling themselves ecclesiastics. The term has also been applied to a particular clerical college, - though d'Ailly does not say so here he is probably thinking of the Cardinals, whose claim to constitute "the Roman Church" or the "ecclesia Petri" he discusses later.

But the Church Militant properly speaking, according to d'Ailly, is any Christian, or all Christians, - "homines fideles" - in this world.¹ This definition he explains in detail. By Christians he means those believing or having an intimation of Catholic truths,² Catholic truths being defined as those which Christian man is bound to believe, "actu vel habitu, explicite vel implicite". D'Ailly says "every Christian or all Christians" advisedly, because, according to some, the Church can remain in individuals, not only in a body. St Augustine is quoted as saying that at one time the Church existed in Abel alone, and others have said that at the time of the Crucifixion the Church remained only in the Virgin Mary. D'Ailly does not endorse these ideas, however, at this point, and later in the course of the argument

-
1. Ecclesia est omnis homo fidelis, vel omnes homines fideles in mortali corpore naturaliter viventes. Op.Gers.I,col.666.
 2. Et voco homines fideles actu vel habitu implicite vel explicite credentes vel enigmaticice cognoscentes catholicas veritates. Voco autem catholicas veritates, veritates quibus quilibet viator actu vel habitu explicite vel implicite firmiter assentire tenetur. Sed dico omnis homo vel omnes homines quia secundum aliquos non solum in pluribus hominibus sed in uno solo potest stare ecclesia. Ibid.

he proves that though the Church might be saved in one person,¹ it would never come to such a pass in actual fact.

It is this Church Universal, says d'Ailly, that is truly called the Church of St Peter. He reaches this conclusion after examining and rejecting one by one other definitions of the "Ecclesia Petri". Most particularly he denies the statement that the Roman Church as a particular church is properly the "Ecclesia Petri". Peter, he says, was appointed Supreme Pontiff before ever he saw Rome, - he never entered the city till at least eleven years after the Crucifixion; even then it is only by historical tradition that we believe he went to Rome, there being no evidence from Scripture.² D'Ailly gives his own definition of the "Ecclesia Petri": Peter, he says, held the spiritual monarchy of the Church Universal, and therefore the Church Universal is more properly called the "Ecclesia Petri"³ than is the Roman or any other particular church.

Though Peter may be the head, he is not the foundation of the Church. In spite of the words "Thou art Peter, and on this rock will I build my Church", Christ remains the rock on which the Church is founded. Who, says d'Ailly, would found

1. Op.Gers.I,cols.670-671, and 672-693 for further discussion.

2. Op.Gers.I,col.668.

3. Ecclesia universalis magis proprie dicitur Petri Ecclesia, quam Ecclesia Romana seu quaevis alia particularis - Ibid.col. 672.

the stability of the Church on Peter's human weakness? Christ is the principal Foundation of the Church, but d'Ailly does not deny that there may be others secondary to Him;¹ he quotes the City of the Apocalypse, which signifies the Church, and is said to have twelve. Thus Christ, having founded His Church on Himself, as upon a rock, the words "Thou art Peter" etc signify that He has stabilise Peter's weakness on the rock of His own infallibility. Further the Scriptures may be taken as the foundation of the Church "secundum spiritualem intellectum", and there are as many foundations to the Church as there are² "testimonia Christianae doctrinae". D'Ailly's polity is thus the body of all the faithful, and its guarantee of continued existence is Christ's promise of His support. For all spiritual purposes d'Ailly thinks of the Church as organised under a hierarchy, the members of which get their powers from Christ, though their office comes from man. In the lowest rank there are the Doctors of Theology and the Faculty of Theology, whose position and powers he discusses most fully in his writings and speeches with regard to the case of John de Montesono. In 1387 John de Montesono,

-
1. ...ita concedemus Christum esse Ecclesiae fundamentum principale ut non negemus super ipsum plura fundamenta aedificari posse. *Recommendatio sacrae Scripturae*, Op.Gers.I,604.
 2. Quot quot ergo sunt Christi eloquia, quot Christianae doctrina testimonia: tot dici possunt Christianae Ecclesiae fundamenta. *Ibid.*

caused great agitation in the University of Paris by his unsound doctrines, chiefly on the subject of the Immaculate Conception of the Virgin. On his condemnation by the Faculty of Theology, the Rector and the Bishop of Paris, he appealed to Clement VII. D'Ailly, with Gerson, who was then in the early stages of his university career, and two others were sent to Avignon to uphold the judgment of the University (1388). D'Ailly, in the course of his speeches, appropriates considerable authority in matters of faith to the Faculty and its members. It is for the Doctors of Theology, he says, to teach the truth and define heresy from their knowledge of the Scripture; and because of this, it is for them to determine matters of faith "doctrinaliter". The Faculty also has the power of judging its own members, not only "doctrinaliter" but also "iudicialiter". This power d'Ailly bases on the authority given to the Faculty, on custom, and on public utility. It is heresy, he declares, to attribute the examination of and the decision concerning heresies to the Pope alone, to the exclusion of the Faculty and other bodies, though the final and supreme decision belongs to the Holy See. Finally he says that no individual, even the Bishop of Paris himself, if he is not a theologian with wide knowledge of the Scriptures,

-
1. D'Argentré, *Collectio Iudiciorum de Novibus Erroribus*, vol.I, part 2, pp.69-129. Another text, incomplete, in *Op.Gers.* vol.I, cols.697-722.
 2. D'Argentré, *Coll.Iudic.* vol.I,pt.2,p.77.

can or ought to condemn the opinions of the Doctors of Theology, without the advice of the Faculty, unless these opinions are manifestly heretical.¹ D'Ailly has erected the Faculty into a court of first instance in matters of faith, and so given it a considerable part in the government of the Church.

He does not discuss the lower ranks of the priesthood at any length, except when referring to the powers he attributes to the priesthood as a whole. He describes the six "potestates sacerdotales" given to the Apostles and hence to their successors. These are the power of consecration; the power to administer the sacraments, including the power of imposing penance, which is the power of the keys, or of spiritual jurisdiction with regard to the conscience; the apostolic power of preaching; disciplinary power, the "potestas iudiciae correctionis"; organising power, the "potestas dispositionis ministrorum"; and the authority to demand the necessities of life from those to whose spiritual needs they minister. The only other power given to the Apostles was that of working miracles, which power² did not necessarily descend to their successors.

All these powers d'Ailly declares to have been common

1. D'Argentré, Coll. Iudic. vol. I, pt. 2, p. 85.
2. Op. Gers. II, cols. 927-928.

1. Op. Gers. II, cols. 928-929.

to all the Apostles in the same degree, except the fifth, the "potestas dispositionis ministrorum", which was appropriated to Peter, as the organiser of the Church, by the words, "Feed my sheep," and therefore to the Pope as his successor,

Just as the Apostles received these powers directly from Christ, so do the bishops and priests of the Church receive them from Him, Who is the only true Head of the Church. Peter or his successor can be called head of the Church only as leader among the ministers of the Church - "inquantum est principalis inter ministros"; yet from him as the hierarch the whole priesthood depends in some degree. D'Ailly proves that the priestly authority is not derived through the Pope, but directly from Christ; the sacerdotal power cannot be conferred by one who may not be a priest himself in all cases, and in any case the Church, in the absence of a Pope, has both the "potestas ordinis" and the "potestas iurisdictionis", which cannot be derived from him in such circumstances.¹ His final proof is from Scripture, - Christ said, "Upon this rock I will build my Church", not "thou shalt build thy Church".

The episcopate, according to d'Ailly, succeeds to the position of the Apostles after their work had become localised. He describes how the Apostles may be regarded as passing

1. Op.Gers. II, cols.958-959.

through three different stages; before the Ascension, when they acted as the assistants of Christ; after the Ascension, as the assistants of Peter, their pastor, before their separation from him; and thirdly, after their scattering throughout the earth in obedience to Christ's command. The bishops succeed to their duties and status in the third stage. Their duty is the care of souls in particular districts, just as that of the cardinals is the care of the Universal Church.

They have considerable powers of jurisdiction. Again a propos of the case of John de Montesono, d'Ailly says that it is for the bishops to decide matters of faith "iudicialiter" by reason of their authority, subordinate only to that of the Holy See.¹ They have been appointed by the Holy Spirit, on the authority of St Paul himself, to rule the Church of God.² They are fully competent to give judgment in cases of heresy without the assistance of the Faculty of Theology, but normally the Faculty should be consulted.³ They have this right by both divine and human law;⁴ the only restriction on their authority

-
1. ...ad episcopos Catholicos pertinet auctoritate inferiori et subordinata, circa ea quae sunt fidei iudicialiter definire. Et haec probatur quia ad eos pertinet iudiciali auctoritate inferiori et subordinata in fide definire, ad quos pertinet consimiliter auctoritate Ecclesiam regere. D'Argentré, I, 2, 76.
 2. Acts xx, 28.
 3. D'Argentré, Ibid., p. 78.
 3. ...tam iure divino quam humano ad Episcopos pertinet haereticos et pravitatem haereticam iudicare, etc. Ibid.

being that if they are not themselves members of the Faculty of Theology, they cannot condemn the opinion of any member of the Faculty, without the Faculty's consent.¹ The Faculty, as has already been said, remains the judge of the orthodoxy of its own members.

Their position with regard to both general and particular councils is important. No local council can be held without the consent of the local bishop, no metropolitan council without the primate.² The summoning of all the bishops is an essential feature of a general council, and once at the council, they have the "auctoritas statuendi et diffiniendi" though others³ attend the council for other purposes.

In one respect the episcopate is not to follow in what are supposed to have been the steps of the Apostles.⁴ D'Ailly says that those who clamour for a return to apostolic poverty are suffering from an ignorance of moral philosophy and theology and a lack of natural prudence.⁵ From all time and among all peoples the priesthood has been allowed a sufficiency on which to live, - the right to claim that sufficiency is fundamental and apostolic. The episcopate has a right to

1. D'Argentré, I, pt. 2, p. 85. 2. De materia etc. MS 1571, f. 19.
3. De materia. MS 1571, ff. 18-19.
4. Op. Gers. II, cols. 877-878.
5. Op. Gers. II, col. 878.

demand enough to support its proper status, within reason, apart from all superfluous pomp, which is an offence against justice, and a snare.¹ Again in his "Scriptum contra Waldenses"² d'Ailly raises a practical objection to the thesis of the Poor Men of Lyons. He points out that in the time of the primitive Church, not only the Apostles or clergy held their goods in common, but also the laymen, - he cites the case of Annanias and Sapphira. From this he concludes that if property is damning to the Church as the Waldenses say it is, then all believers are damned likewise. In any case, he says, the prelates must have property to defend the Church against heretics and other enemies.³ He allows that it may be different in the case of those who have taken a vow of poverty, as it is perfectly allowable to do; he is speaking only of the ordinary members of the clergy, carrying on ordinary work in the Church.

The cardinals succeed to the position of the Apostles after the Ascension and before their separation from Peter. They are the assistants of the Pope, just as the Apostles were

-
1. Op.Gers.II, col.878. C.p. Sermo factus in die Domenica in Septuagesima:- Primo namque vinea ecclesiae cultoribus suis exhibet fructum corporalis necessitatis...Sane, non ad carnalis voluptatis superfluitatem...Tractatus et Sermones, Argent. 1490.
 2. MS Bibl.Mazarine, no.1683,ff.6-34.
 3. Ibid.f.6 and verso.

the assistants of Peter, and they are now acting as the "papae principales Assessores, et Consilarii, atque Cooperatores, in regimine Universalis Ecclesiae".¹ Their work lies in the whole world rather than in any locality, but they assist the Pope both in the name of the Universal Church and of the Roman Church.² Their local as well as universal character is shown by the fact that they are the leaders of the Roman clergy - "principiores in Clero Romano" - and thus they share the rights of the Roman citizens.

Though they are the subordinates of the Pope, d'Ailly gives them certain powers independent of him. They are bound to teach the truth, by reason of their status as successors of the Apostles, and they must fulfil their obligations even to the detriment of the Pope, who should regard himself as one of the bishops in the "ministerium praedicationis" and act accordingly. The cardinals are authorised to rebuke the Pope if necessary, and that in other circumstances than actual heresy, just as Paul rebuked Peter, - a precedent which d'Ailly is very fond of quoting. In fact it is the duty of the cardinals to convoke a general council in defection of the Pope. It is their special

1. Op.Gers.II, col.929.

2. In utraque vero, tam Urbis quam Orbis praesidentia coassistunt Papae Cardinales, tanquam speciales ipsius coadiutores, vice et nomine tam Romane quam Universalis Ecclesiae. Ibid.

duty to act as guardians of the interests of the Church Universal, even to their own hurt, - d'Ailly says that their traditional red robes are worn as a sign of their readiness for martyrdom in such a cause of need be.

It is discussing the use and application of the word "Roman" as applied to the Church that d'Ailly's conception of wherein infallibility lies, and of the relations between General Council, Pope and Cardinals, becomes clear. He discusses various definitions of the "Roman Church", as the Pope and Curia, as the Cardinals, as the Roman clergy, and as the faithful. He concludes that if the Roman Church is taken to mean the Universal Church, it is infallible.¹ If, on the other hand, it is taken to mean the College of Cardinals or the Roman clergy it is definitely inferior to the General Council which represents the infallible Universal Church,² and it receives its right to elect the Pope and its other privileges from the Council. If the Roman Church is construed as the Pope, it is allowed that the Council should, in the ordinary way, be confirmed by his authority. All real authority thus rests with the infallible Universal Church; the Council is definitely superior to the Papal Curia; and it is to

-
1. Et isto modo (as the Church Universal) secundum illos sumitur Ecclesia Romana, ubicumque innuitur quod contra Fidem errare non potest Romana Ecclesia. Op. Gers. I, col. 667.
 2. Si Romana Ecclesia caperetur pro collegio Cardinalium vel Clero Romanae diocesis, talis Ecclesia Romana nullam super Generali Concilio conceditur auctoritatem habere. De materia MS 1571, f. 67.

be noted that it is only in ordinary circumstances that the Council must be summoned by the Pope and that its powers must be confirmed by him, - should circumstances make this impossible, the Church has in itself ample powers to provide for its own welfare.

D'Ailly hastens to explain that the authority of the Roman Church in the sense in which it is generally understood is not to be lightly esteemed. He supports his statements by ten conclusions which he gives as being approved by learned opinion generally. The Roman Church is the mother and mistress of all churches, and it is heresy to deny this supremacy. In this sense it is rightly called the head of all other churches. This elevated position is due to that Church whose Bishop is the Pope himself, and so, according to some, the Roman Church is head of the General Council, even of the Church Universal itself, which is made up of all the particular churches. It was d'Ailly's own view that the supremacy of the Roman Church depended on the fact that the supreme pontificate and the bishopric of Rome happened to be united in the person of one man.

-
1. See Op.Gers.I, cols. 668-669. Prima (conclusio) est, quod pontificatus summus et pontificatus Romanus sunt pontificati distincti; licetsint in eadem persona divina ordinatione coniuncti.

Secunda est quod pontificati isti non sunt necessario sic annexi quin ex causa rationabili velegant sparari; puta si summus pontifex cum concilio generali iudicaret esse utile Ecclesiae Universali quod Ecclesiam Romanam omnino dimitteret, et se alteri copularet, et hoc ex causa rationabili.

In the case of a separation, which might very well take place legally, should the Holy See be fixed elsewhere, then Rome's primacy would be lost just as that of Antioch was on the¹ transference of the See to Rome.

This pre-eminence of the Roman Church is, according to d'Ailly, based not so much on human as on divine law and tradition; Christ ordained the Papacy; from which d'Ailly deduces that the authority of the Pope, the Roman Church and the General Council is immediately from God, though they are all humanly appointed or created by some legitimate authority.

He discusses in some detail the importance of the Roman Church with regard to the General Council. The Roman Church, he says, which is represented principally by the Pope and Cardinals, is the "pars principalis sive membrum" of the Council. It is representative of the Universal Church as no other body or particular church, except the General Council itself can be. In the absence of the Pope at a Council, the Roman Church is to be regarded as being represented by the Cardinals present, especially if they have been summoned for the purpose by the apostolic authority. According to some, no business can

1. Tertia (conclusio) est, quod si pontificatus isti essent de facto separati, Romana Ecclesia non esset caput omnium Ecclesiarum, nec haberet principatum populi Christiani. Op. Gers. I, col. 669. It is interesting to note that among the cases in which such a separation might reasonably take place, d'Ailly gives the case of schism.

specifics. If the Roman Church becomes heretical, which it may be transacted without the Roman Church, unless for some valid reason; in any case the opinion of the Pope and Cardinals, where and the Church can do quite well without it; until this happens, it is available, should be received with all due respect. Their opinion should be taken with regard to the reform of the Church by a Council, - in fact all ranks should be heard with regard to the reform of their own number.¹

Both in depicting the ecclesiastical hierarchy as The Roman Church has the right in certain cases and with regard to certain persons, to interpret conciliar statutes concerning human custom, or even change them wholly or in part when necessity or piety demands such a change. D'Ailly notes that this has been understood by Johannes Andreae to mean that the Pope can interpret conciliar statutes, without the help of the Council itself; he seems to endorse this opinion, since he follows the reference with the words "Et hoc verum est", and more references, but the "De materia Concilii generalis" ends at regular monarch. On the one hand, says D'Ailly, the papacy and the priesthood are not debarred from temporal possessions of the authority of the Roman Church is an exalted one; he says that normally the Council cannot dictate to the Roman Church, though this rule is waived in certain conditions, which he never

1. Op.Gers.II, col.939. 2. De materia MS 1571, ff.68-69.
3. ...hoc regulariter, et ut in pluribus verum est, sed tamen in aliquibus fallit, quae particulariter declarare non est huius operis. De materia. MS 1571, f.68, and almost the same words in the "De Ecclesiae etc.potestate" Op.Gers.II, col.960.

specifies. If the Roman Church becomes heretical, which it may do, since it is not infallible, then it loses its supremacy and the Church can do quite well without it; until this happens, however, or until a transference of the Holy See takes place, it is heresy to deny the Roman Church the position which it claims by tradition and law.

Both in depicting the ecclesiastical hierarchy as he sees it, and in describing proposals for reform, d'Ailly quoted and follows the Aristotelian doctrine of the mean in all things and hence the advisability of a mixed constitution. Just as the health of the body consists in the balance kept between extreme contrary qualities, so does the Catholic truth providing the health of the soul lie between two extremes, the Waldensian heresy which denies the clergy any right to temporal possessions, and the error of Herod, who thought that Christ was to be a secular monarch.¹ On the one hand, says d'Ailly, the papacy and the priesthood are not debarred from temporal possessions while on the other hand the Pope does not, as the representative of Christ, hold from Him supreme authority, dominion and jurisdiction in matters temporal. On the same lines d'Ailly shows that both those who exalt the powers of the Council and those who attribute undue powers to the Pope are wrong, and that the truth lies between. The importance he attaches to a similar

1. Op.Gers.II,cols.926 et seq.

balance or proportion between indigence and unnecessary magnificence in the position of the clergy is illustrated by his letter to Pope John XXIII, written just before the Council of Constance, in which he says that wide disparity between the possessions and powers of the various members of the ecclesiastical hierarchy is one of the signs of the approaching era of persecution predicted in the Scriptures. That proportion which produces perfect harmony is, according to Aristotle, as vital to the wellbeing of the State, and therefore of any other community, as it is to music.¹ He also goes to medicine for his illustration, and describes how if all the nourishment in a body goes to one member, that member grows enormous at the expense of the rest, and death results; so it is, he says, with the body politic, secular or ecclesiastical.²

It is not fitting, therefore, he says, that the Church

1. Tertium signum sumitur ex proportionis inequalitatis nimiae Ecclesiasticorum membrorum, cur alius quidem esurit, alius vero sobrius est. Sicut enim ad bonam armoniam requiritur inequalitas moderata quae si nimius excedit, tollit melodiam, sic, secundum Philosophum, propter immoderatam disparitatem scilicet civium, corrumpitur politia. Non reperitur autem in historiis quod unquam fuerit aliqua civium politia, in qua esset tanta differentia Sacerdotum: ut hii quidem essent maiores quam Principes saeculi, ceteri divitiores (forte deiectores) vulgo. -Op.Gers.II,col.877.
2. Videmus etiam quod si nutrimentum fluat ad unum membrum, ita ut enormiter ingrossetur, et alia nimium macerentur, non potest corpus diu vivere: sic etiam in corpore Reipublicae Ecclesiasticae. Op.Gers.II,col.877.

which may be said to be under a regal priesthood, should be governed by an absolute monarchy.¹ The constitution should be a mixed one, regal, tempered with aristocracy and democracy. He explains that by democracy he means the "principatus populi" and not that type of government which Aristotle opposes to the "polis" or tempered monarchy. He believes, as a general principle, that all communities, lay or spiritual, have the right to elect their own governors, unless there is some law to the contrary made by those entitled to make such a law.² Even when describing the appointment of bishops as being made with the advice and consent of the Cardinals by the Pope, d'Ailly adds that "per hoc tamen non excluduntur iura electionum."³ This belief involves him in a difficulty which is for him unavoidable; that of reconciling the conception of authority as vested in the community and exercised through representatives, and the idea of the Apostolic Succession, - how are the claims of the people to choose their governors, and the claims of the clergy to authority by Apostolic Succession to be recognised at the same time? This problem necessarily influences his account of

1. Op.Gers.II,col.946.

2. ...aliquibus sit aliquis Prelatus vel Princeps vel Rector praeficiendus, naturali ratione evidenter colligitur, quod (nisi per illum vel illos, cuius vel quorum interest, ordinetur contrarium) illi quibus est praeficiendus, habent ius eligendi praeficiendum eis...Unde nullus debet eis dari ipsis invitis. Op.Gers.II,col.930.

3. Ibid.

the organisation of the Church as he sees it.

He quotes Aristotle to show that although monarchy is perhaps the best form of government, yet if it is mixed with a good aristocracy and with democracy, it is the best possible, in that all have some part in the government. Pure monarchy, though best in itself, is always dangerous, on account of the ease with which a monarch is corrupted into a tyrant, unless he himself is perfect. The aim of the ruler is the criterion, - d'Ailly defines tyranny as seeking the convenience of the Prince rather than the good of the people; he says that this definition can be applied to unfaithful pastors as well as to the secular ruler.¹

He cites the Jewish constitution as ideal; Moses, Joshua and their successors were assisted by the people, who provided the democratic element, while the elders provided the aristocracy, though even in them there was an element of democracy, since they were elected from and by the whole people. Hence d'Ailly's conclusion that the best form of government for the Church would be ensured if a number of men were to be elected as cardinals by and from all provinces to serve under one Pope

1. Quintum signum est tyrannia praesidentiam, quae cum non sit res violentia, durare non potest. Tyranni proprietates est quaerere non commune bonum sed utile Principum. Tales sunt Pastores qui non pascunt gregem Domini sed semetipsos...Op.Germ. vol.II,col.878.

and assist him in the work of government while tempering his use of the "plenitudo potestatis".¹ He has provided for an elected aristocracy comparable to the elders in the Old Testament.

While saying that ultimate unity of control is desirable in spiritual matters where the faith should be the same for all alike, d'Ailly makes different arrangements with regard to the temporalities of the Church. He quotes a certain Cantor Parisiensis to show that all must be subordinated to a hierarchy ordained by God in the Church, resistance to which is, according to St Augustine, tantamount to resistance to the divine command.² On the other hand, owing to the demands of human tradition and the variety of time, places and peoples, ordinances concerning temporalities should permit of variations, and the administration of those temporalities should be in the hands of many rather than of one.

D'Ailly's assumption that authority lies with the community, which therefore gives office to its representatives, through which it acts, is best illustrated by his account of the election of the Pope and his subsequent powers. The Pope must be elected, since he cannot appoint his own successor as he can appoint other bishops, and d'Ailly therefore inquires

1. Op.Gers.II,col.946.

2. De materia. MS 1571,ff,11-12.

who has the right, by natural and divine law, to make appointments to the highest rank in the ecclesiastical hierarchy.

The election, he decides, belongs "aliquo modo" to the Cardinals; he explains that he says "aliquo modo" because their monopoly of the function of election is not of natural or divine, but of positive law.¹

The fact that the Pope is the ruler of two communities, the Universal Church and the diocese of Rome, in his various capacities as Supreme Pontiff and Bishop of Rome respectively, creates a difficulty. In accordance with his theory that all rulers should be elected by their subjects, d'Ailly decides that the Romans, both lay and ecclesiastic, have fundamentally the right to elect the Pope, who is their Bishop.² This fact holds true, he says, so long as neither the Romans nor their superiors ordain otherwise. A natural objection is that as the Pope is also ruler of the Universal Church, that Church, or its representative, the General Council, should participate in his election. D'Ailly meets the objection by a practical argument which he quotes as supporting the view that the right of election lies with the Romans. Though the Universal Church

1. Op.Gers.II,col.930.

2. Sic Romani ex iure naturali et divino hoc large sumpto, habent ius eligendi Summum Pontificem. Op.Gers.II, col.930. See also note 2, p.157 supra.

or the General Council may have the right to elect the Pope, yet, as he is Bishop of Rome, it would seem more expedient to allow the Romans to exercise that right, and so evade the difficulties raised by the impossibility of getting the Church together, and of getting it to agree to one man. It seems that d'Ailly himself thought that this plea of expediency was the only one that could justify election by the Romans, since the Church¹ Universal has a prior claim to the Pope as a matter of fact.

If the Romans have the authority to elect, it is merely "vice et nomine Universalis Ecclesiae". Similarly the Pope's right to give that authority to another is exercised only in the name of the Church of which he is the head, and which he represents. Hence the method of papal elections has been fixed by the authority of the Pope and Council acting together;² both Pope and Council are representatives of the Church, and are acting as such

It is also on the grounds of expediency that he con-

-
1. Alia opinio est, quod pari, vel maiori ratione, sicut ad universitatem Romanorum pertinet Iure naturali vel divino electio Papae, tanquam Romani Pontificis; sic ad universitatem fidelium, simili Iure naturali et divino pertinet electio Papae tanquam Summi Pontificis Universalis Ecclesiae, vel ad Generale Concilium ipsam repraesentans: quia Ecclesia Universalis vel congregatio ipsam repraesentans originaliter et principaliter habet Ius eligendi sibi caput...et haec opinio verior reputatur; ex qua sequitur, quod si universitas Romanorum, naturali aut divino Iure habeat potestatem in electione Summi Pontificis, hoc est vice et nomine Universalis Ecclesiae. Op.Gers. II, col.936.
2. Ibid.

cludes that the Romans, in order to avoid confusion, can reasonably and ought to transfer their right of election to a few Roman clergy, or even to laymen. So in early times was the election of the bishops, which by right belonged to laymen and clergy alike, given over to the clergy exclusively, by consent of the laity, since the clergy were wiser and holier than the rest. Similarly, he says, the Romans should transfer their right of election, or of appointing electors, to a few, or even to one, - the Pope himself. There is nothing to prevent the community thus acting through its own delegates. It is thus that the Pope has been able to give the right of election to certain Kings and others, since the choosing of the electors had been handed over to him by the Romans; so would d'Ailly answer those anti-papalists who claimed that Popes had been appointed by Kings and Emperors. D'Ailly is careful to point out that any such power of appointing electors is exercised by the Pope only with the knowledge and consent of the community. He illustrates his point from historical precedent; Pope Adrian, he says, gave Charles, King of the Franks, the right to choose the Pontiff, but he did it with the consent of a synod held at Rome, which included many of the Roman clergy: Pope Leo, transferring a similar right to King Otto, did so with the consent

of many of the Roman clergy and people. Finally, Pope Nicholas, when he transferred the right to the Cardinals, did so with the consent of a synod of over a hundred bishops at Rome; and the right has been confirmed to the Cardinals by many laws and by prescriptive custom.

Having shown how it is that the Cardinals elect the Pope, d'Ailly is now faced with the fact that it is the Pope who appoints the Cardinals. His suggestion that the Cardinals should cease to be papal nominees and be elected by and from all provinces¹ would have solved the difficulty if put into practice, but it never was. The existing custom seems to lead to a vicious circle, and d'Ailly suggests an explanation if it. He points out that Christ, providing for future vicissitudes in His Church, gave Peter and his successors the "plenitudo potestatis in spiritualibus" and hence, notwithstanding the rights of the Cardinals, the Pope can still appoint the electors of his successor, "ex ordinatione Christi et potestate collata sibi a Christo." This power is not to be used save in the case of the defection of the usual electors, should they not wish, or should they be unable to fulfil their function. D'Ailly is once again up against the difficulty of reconciling the right of the community and the claims of the Pope to authority by

1. Op.Gers. II,col.946.

Apostolic Succession.

He concludes, therefore, that the Pope can choose the electors of his successor if the Romans give him the right to do so, or if they are found to be negligent in their use of their own right of election. It is probable, he says, that at some time the Romans did make such a grant to the Pope, and therefore he, working alone, can transfer the right to the Cardinals, or any other person or college as he pleases, as the utility of the Church demands.¹

If the electors, - the Cardinals or their delegates, - lose their right through guilt or for any other reason, then it reverts to the Romans, unless the Pope, who has power in this respect from the Romans, ordains otherwise. D'Ailly points out that the community has delegated rather than alienated its right to the Cardinals, and so can resume it and transfer it elsewhere should need arise. He says that though it may seem that the right of election should revert to the Romans in the case of a vacancy of the See, he himself thinks it is more fitting that in such circumstances the right should go to a General Council,

1. ...satis probabile est, quod Romani tale Ius aliquando translulerunt in Papam; et ideo, ex tunc potuit papa solus, concedere potestatem eligendi Summum Pontificem Imperatoribus, vel Regibus, vel vicinis Episcopis, vel Clero Romano, vel Canonicis Ecclesiae Romanae, vel aliis, et maxime Cardinalibus prout ei visum fuerit Ecclesiae convenire. Op.Gers.II,col.932

if it can conveniently be summoned, - still more so if it is already sitting.¹ This arrangement is only reasonable, since, as has been said, the Bishop of Rome is also the head of the Church, which is represented by the Council. D'Ailly even goes so far as to throw a definite doubt on the right of the Romans, and to say that any attempt² to assert such a right may lead to schism.

As his tract "De Ecclesiae etc. potestate" is a livre de circonstance, produced for the benefit of the Council of Constance,³ the author applies his theory to the then existing state of the Church, and gives his reasons why the existing method of election should be modified by the introduction of representatives of the Council into the conclave.⁴ Council and Cardinals, he says, should work together for the peace of the Church which they both represent, directly or indirectly.

Having traced back all authority to the community ruled by the Pope, who is elected by its representatives, d'Ailly discusses the position of the Pope so elected. Here he works out in detail his conception^c of the papacy as a "principatus temperatus".

1. Sed tamen probabilius videtur posse dici quod in casu praemisso, Ius praedictum pertinet ad Generale Concilium etc. - Op. Pers. II, col. 932.

2. ..remaneret dubium, ad quos devolveretur Ius, sivi potestas huiusmodi, cum aliqui magni Doctores teneant, quod rediret ad Romanos; quae opinio, licet non esset vera, nec tenenda, tamen posset verisimiliter esse occasio generandi novum scisma. 932.

3. October 1416.

4. See supra pp. 88-89

The position of the Pope as being at once the successor of St Peter and the Bishop of Rome, is an exalted one. He alone has the "potestas regiminis", the monopoly of St Peter.¹ He is the head of the divinely ordained hierarchy of the Church,² and his dignity is from God and is unalterable by man.³ D'Ailly quotes and endorses the opinion of a verse from the Glossa:-

"Restituit Papa solus, deponit et ipse

Dividit ac unit, eximit atque probat,

Articulos soluit, synodumque facit generalem,⁴

Transfert ac mutat. Appellat nullus ab ipso."⁵

The Pope is supreme in all matters concerning the discipline of the Church, - d'Ailly calls him the "informer fidei ac morum". The "plenitudo potestatis" of the Pope is fully discussed in Chapter I of part three of the tract "De Ecclesiae etc. potestate".⁵ In this tract d'Ailly first refers to the argument that the plenary power does not reside in the Pope exclusively, as he is but the head of the Universal Church, the Roman Church and the General Council, and it would be absurd

1. ...in Petro et ceteris Apostolis non fuit aequalis potestas regiminis; sed ex Christi institutione, in hac potestate Petrus fuit maior, et praefuit aliis. Op.Gers.I,col.668.
2. ...officiorum varietas, ad sui pulchritudinem ordinem requirit ...quod una, scilicet Papalis auctoritas, sit suprema, ex Christi institutione, et non tantum ex humana auctoritate, sed divina. Op.Gers.II,col.934.
3. Op.Gers.II,cols.946 and 936.
4. De materia MS 1571,f.63.
5. Utrum Plenitudo Potestatis in Papa vel in Ecclesia aut Concilio resideat. Op.Gers.II,col.949.

to attribute more power to the head than to the whole body. The reply to this argument is that canon law attributes the plenary power to the Pope and to no other person or college.¹ D'Ailly then cites the solution of Maurice of Prague, who said that the plenary power resides in the Pope "separabiliter" - that is to say that it is not an essential part of his prerogative; it resides in the Church Universal "inseparabiliter" - that is to say it is essentially the attribute of the Church; and it resides in the General Council "repraesentative" - i.e. in so far as the Council is representative of the Church. D'Ailly explains that laws which speak of the plenary power are to be interpreted as meaning the "potestas iurisdictionis" which he has already described as the prerogative of the Pope; in this sense the plenary power resides solely in the Pope, who exercises it "generaliter", i.e. throughout the whole community of the Church,² and "ministerialiter" i.e. as the minister of that Church. D'Ailly describes how the plenary power also resides, figuratively³ speaking, in the Universal Church, and in the General Council

1. Op. Gers. II, cols. 949-950.

2. Plenitudo potestatis Ecclesiae separabiliter residet in Romano Pontifice. Plenitudo potestatis Ecclesiasticae inseparabiliter residet in Universali Ecclesia Catholica. Plenitudo potestatis Ecclesiasticae repraesentative residet in Concilio Generali. Ibid.

3. Dico quod huiusmodi Plenitudo Potestatis tropice et alio modo equivoce, est in Universali Ecclesia, et in Concilio Generale ipsam repraesentante. Op. Gers. II, col. 950.

as representing it. The Pope is endowed with this power and exercises it as the minister of the Church, for the Church is at once the cause of this power's existence and the end for which it exists; to the Council is delegated, therefore, plenary power to regulate the general life of the Church, as its representative.¹

On the basis of these assumptions, d'Ailly makes it clear that the powers of the Pope are attached primarily to his office. It is in his work concerning John de Montesono, however, that he expresses his conception of the Pope and the Holy See most fully. Final judicial power, he says, belongs² to the Holy See, which is infallible. He defines the See as being either the Universal Church or some body representing it,³ or the Roman Church presided over by the Pope. It is also to

-
1. ..plenitudo potestatis est in Papa, tanquam in subiecto ipsam recipiente, et ministerialiter exercente. Secundo est in Universali Ecclesia, tanquam in obiecto ipsam causaliter et finaliter continente; Tertio, est in Concilio Generale tanquam in exemplo ipsam repraesentante, et regulariter dirigente. Op.Gers.II,col.951.
 2. Ad Sedem Apostolicam pertinet autoritate iudiciali suprema circa quae sunt Fidei, iudicialiter definire. This on the grounds that "sanctae Sedis Apostolicae fides nunquam defecit". D'Argentre, Coll.Iudic. vol.I,part 2,p.76.
 3. ..quid sit Sedes Apostolica. Nam vel est Universalis Ecclesia vel aliquod generale Collegium Universalem Ecclesiam repraesentans, vel particularis Ecclesia Romana in qua scilicet Ecclesia sedet, id est cui presidet summus Pontifex, et ideo ipse et Sedes Apostolica non sunt idem: sicut non sunt idem Sedes, et Sedens. Ex quibus patet, si ad solam Sedem Apostolicam pertinet circa Fidem declarare vel reprobare quod ad solum summum Pontificem non pertinet, et e contra. Ibid.,p.84.

be noted that in his "De Ecclesiae etc. potestate" he refers to the Apostolic See as "the Pope and Cardinals", and attributes to the See in this sense control over all matters relating alike to faith and discipline.¹ He points out that the See and its occupant are not the same, using this argument to confute John de Montesono's statements.² He concludes that supreme judicial power belongs normally to the "Sedes" and the "Sedens" acting together, not to either acting alone.³

D'Ailly says that infallibility belongs to the Universal Church alone.⁴ Therefore when he speaks of the infallible See he means the See in the sense of the Universal Church, since that alone is infallible. He realised, however, that it was impossible to appeal to the Universal Church, and therefore he

-
1. ...ad Sedem Apostolicam, id est ad Papam et Cardinales prae ceteris Sedibus particularibus pertinet declaratio veritatem necessarium, aut utilium ad salutem, sive quantum ad Fidem, sive quantum ad utile regimen Ecclesiae militantis: quia in hoc succedant Petro et caeteris Apostolis quantum ad statum Apostolicum primitivum. Op.Gers.II,col.935.
 2. 'Solis Sedis Apostolicam est declarare, damnare et reprobare:' et iterum 'quod eorum quae tangunt fidem ad solum summum Pontificem pertinet examinatio et decisio' hoc, inquam, continet manifestam haeresim, et est dictum sibi ipsi repugnans et contrarium. D'Argentre, op.cit.p.84.
 3. ...tamen huius sedem sedentemque in ea summi Pontifici pertinet huiusmodi causarum suprema iurisdictio, seu iudicialis definitio - Ibid.
 4. Constat quod Christus promisit Petro quod non deficiet Fides sua, non intelligens de eius Fide personali, sed de Fide generali Ecclesiae Dei committendae Regimini Petri: et cum non loquitur de aliqua Ecclesia partiali, sequitur de Ecclesia totali. Op.Gers.I,col.670.

appealed to its representative. Though he says that a general council is not always infallible,¹ he quotes the opinion that the Universal Church has delegated its infallibility to its representative,² and therefore there is at least a pious hope³ that the Council is infallible when guided by the Spirit. As infallibility is invested in such an unwieldy body as the Church, this is the only logical conclusion. His account makes it quite clear that the true final authority rests with the Church, the community of the faithful.

The glory of the Pope, he says, in his "Oratio de Officio Imperatoris, Papae, Reliquorum Membroꝝ Concilii Constantiensis", lies in the sublimity of his position, the nobility of his condition, and the utility of the duty he performs. The first is dependent on the worthiness of his election, the second on the worthiness of his life, and the third on the worthiness⁴ of his government. His power is all to be used for the

-
1. ..generale concilium potest errare non solum in facto, sed etiam in iure, et quod magis est, in fide. Von der Hardt, Rer. Conc. Const. vol. II, col. 201.
 2. ..Universalis Ecclesia a Christo et non a Papa habet hoc privilegium autoritatis, quod in fide errare non potest. Et hanc etiam autoritatem, secundum aliquos, habet Concilium hanc Universalem Ecclesiam repraesentans. Ibid., col. 130.
 3. ..licet hoc idem pie credatur de Concilio Generale, videlicet quando innititur divinae Scripturae vel autoritate quae a Sanctae Spiritus inspirata: alias saepe errasse legitur. Op. Gers. vol. II, col. 958.
 4. ..habet positionis sublimitatem si bene intraverit. Habet conditionis nobilitatem si bene vixerit. Habet operationis utilitatem si bene rexerit. Op. Gers. II, col. 919.

good of the Church: as long as he uses it in the right way, he has many special privileges, but he may not use his authority "in destructionem Ecclesiae",¹ since he is the "minister" of the Church. Should he do so, the Church has ample powers to restrain him despite the divine nature of his office.² The unity of the Church is not dependent on the unity of authority in the Pope, - the Church remains the same if there is no Pope at all;³ it is not so anthropomorphic that it dies if deprived of its head on earth,⁴ for it cannot be deprived of Christ, Who is its true Head.

It is not only in cases of heresy that the Pope is responsible to the Church. D'Ailly cites the precedent of St Paul, who rebuked St Peter, "and withstood him to the face, because he was to be blamed."⁵ He goes even further; he says that it is lawful for the Church to depose a Pope who is quite innocent if the good of the Church demands his deposition.⁶

1. De materia. MS 1571, f.63, and Op.Gers.II,col.959.

2. ..licet Papalis dignitas a Deo sit, unde ab homine nec maior nec minor fieri potest, tamen, usus plenitudinis Potestatis, ad excludendum abusum, potest Concilii Generalis autoritate restringi. Op.Gers.II,col.946.

3. Propositiones ad exterminandum praesentis schismatis per viam Concilii generalis. Op.Gers.II, cols.112-113. See supra, pp.77-8

4. Op.Gers.I,col.691.

5. Galatians,ii,11.

6. Licet regulariter Papa verus et canonicus, de haeresi, aut nullo notorio crimine Ecclesiam scandalisante, non infamatus, nec suspectus...Tamen ab universale Ecclesia seu Concilio Generale ipsam repraesentante...iute posset ad cessionem compelli. Vondder Hardt, vol.II,col.221.

This he writes a propos of the burning question of the Schism, and the problem presented by the obstinacy of the holders of the papacy.

D'Ailly thus assumes that any holder of an office in the Church is a delegate of the community, holding his office on trust, - he always insists that the priest has "ministerium" but not dominion. The Pope, in spite of his great authority, he places as it were in the position of the responsible minister¹ of the Church. As long as he is virtuous in character and in the exercise of his office, he is truly God's Vicar on earth, and he continues in office as long as the interest of the Church demands that he should. If he errs in faith, or in behaviour, he retains nothing but the right of an accused man to a fair trial. That right he does retain. He can still summon a general council, even when he is suspect of heresy, and none can refuse the obedience due to him without a decree from the Council to that effect.² Should the need of the Church at any time demand his resignation, he must give it; his rights must in all cases make way for those of the Church. So far is D'Ailly's conception of

-
1. ...Papa, proprie loquendo, est minister hanc potestatem subiective recipiens et administrative dispensans. Op.Gers.II, col.951.
 2. Papa, etiam de haeresi suspectus vel accusatus, potest Concilium convocare et ibidem interesse...clerici non debent a Papa etiam suspecto de haeresi ante diffinitionem Concilii discedere. De materia.MS 1571,f.21.

the Pope's position perfectly clear. He, the fallible representative of the infallible community, and its servant, is responsible to it or can be dismissed by it for reasons of convenience like any other servant. His judge for practical purposes is the Council, also representing the community, and therefore infallible when truly representative and inspired.

D'Ailly here meets the difficulty which all the writers of the Conciliar Movement had to deal with. The Council is infallible when guided by the Spirit; how does it become obvious when the Council is guided by the Spirit and not actuated by meaner inspiration? D'Ailly never answers this question: it was answered by Nicholas of Cusa, who in the "De Concordantia Catholica", presented to the Council of Basel in 1433, gives a complete summary of the Conciliar theory, and shows that he has grasped the root cause of its failure. It is a magnificent plea for unity, - more than that, for an active and real will to the reaching of the end in view, a plea for "concordantia".¹ Without this "concordantia" the Council is nothing; given "concordantia" it is infallible and the validity of its decrees² depends on the subscription of all the members present. Even Cusanus, however, is forced to acknowledge that for practical

1. De Concordantia Catholica, lib.II, "Qui est de Concilio", cap.1

2. Ibid. lib.II, cap.3.

3. De materia. MS. 1571, f. 47.

purposes the will of the majority must carry the day;¹ the age of the Concordantia Catholica was over, if it ever had existed at all.

When discussing the actual powers and dignities of the Pope, d'Ailly, as has been said,² divides them into the essential and necessary, and the adventitious and accidental; to some, many of the papal prerogatives seem to have been usurped to the prejudice of the bishops and others. He condemns all papal interference in the election of the bishops, in the usual ecclesiastical visitations, "et etiam multa alia huiusmodi quae vocabantur iura camerae apostolicae." Such "rights", he says, were not claimed by St Peter and the early Popes, but were introduced later, more de facto than de iure, and seem to be in contravention not only of the general good, but also of divine law.³

He also draws a distinction between the spiritual powers inherent in the papacy and the temporal powers claimed by some for the papacy, which are, according to d'Ailly, a hindrance rather than a help to spiritual life. He proves in his "Quaestio de resumpta", that Christ and St Peter had no sort of temporal authority. Authority such as is implied by "Principatus

1. De Concordantia Catholica, lib.II, cap.4.

2. See supra pp.49-50.

3. De materia.MS.1571, f.47.

Dominium, vel Iudicium coactivum¹ litium" rather impedes spiritual things than supplements them. St Peter never made any claim to temporal power, while Christ explicitly said, "My kingdom is not of this world."² He refused the "potestas iurisdictionis"³, still more would He repudiate dominion. In the "De materia Concilii generalis" d'Ailly is still more explicit. Even if it be allowed that the Pope has extensive powers in such matters, he says, it is the opinion of many that it is not fitting that he should use them, as Christ did not.⁴

D'Ailly is just as emphatic with regard to the property of the Church. Christ followed the rule of poverty and rendered unto Caesar the things that are Caesar's, and the Pope should do the same, as far as possible. He dismisses the arguments⁵ for apostolic poverty, as being unpractical, but he says that ecclesiastics of all ranks are the administrators, not the owners of the property of the Church, - they have "ministerium", not dominion over their subjects and their possessions. He does

1. Op. Gers. II, col. 673.

2. John xxviii, 36.

3. "Man, who made me a judge or a divider over you?" - Luke xii, 14

4. ..etsi concederetur Papam habere de iure divino dominium universale respectu omnium (spiritualium et temporalium) tamen constat quod pro diversitate temporum et locorum et statum nec Papa nec Ecclesia habuerunt aut habere debent in talibus dispensationibus et administrationibus beneficiorum et temporalium iurisdictionem universaliter exercitum aut executionem aut usum. De materia. MS. 1571, f. 8.

5. See supra pp. 148-149.

not deny that the Church can hold property, but he is emphatic in declaring that such property is the property of the community, not of the individual administering it. The Pope, for instance, is the "universalis dispensator" and not the owner of ecclesiastical property, and maladministration on his part may mean deposition,¹ just as it would mean the dismissal of any other unfaithful steward. Just as the defaulting abbot of a monastery, or the defaulting bishop of any particular church can be deposed by the community whose possessions he has dissipated, so can² the Pope be dismissed by the Church Universal if necessary.

The Pope, however, has the right to tax ecclesiastics. Just as the Prince has to tax his subjects because all men refuse to give up their property in the public interest, so the Pope, in cases of necessity, of which he is sole judge, may demand a grant from his ecclesiastical subjects. This demand may even be extended to the laity in cases of dire necessity, such as a threat to the Church from the infidel, or from some other danger; otherwise the Pope has no authority to make any demands

-
1. ...Papa...est universalis dispensator...omnium generaliter Ecclesiasticorum bonorum spiritualium et temporalium: non quidem quod sit eorum Dominus, sed sola Communitas Ecclesiae Universalis Domina est...Unde ulterius concluditur, quod si Papa pro libito detrahat bona Ecclesiae et non dispensat bona fide, de Iure non tenet...Op.Gers.II, cols 943-944.
 2. ...sicut Monasterium posset agere ad depositionem Abbatis, vel particularis Ecclesia ad depositionem Episcopi si constaret quod dissiparet bona Monasterii vel Ecclesiae...sic est de Papa, si admonitus non corrigetur. Op.Gers.II, col.944.

on lay property. The Pope can also tax the clergy in order to maintain the station proper to his rank, and the general council is to see that there is no abuse of this privilege.¹ Similarly the Cardinals and the Curia may tax their subordinates, since without temporalities spiritualities cannot exist for long "in hac misere vita".² Maladministration in their case does not seem, according to d'Ailly, to entail deprivation, on the grounds that any widespread deprivation of the Cardinals might create a precedent that would strike at the roots of all society.³ He is also careful to protect the Cardinals against unjust accusations of simony, - there are occasions, he says, when it is right and necessary that they should pay in certain sums to the papal treasury.

Apart from his account of the positions and powers of the officers of the Church, d'Ailly has a clear account of the composition, the position and the relative powers of the various members of the body that exercises control in the name of the community, - the General Council. A large part of the

-
1. Quo Iure, Vacantiae, Annatae, aut minutae servitiae, debeantur Pontifici Maximo. Op.Gers.II,col.945.
 2. Quo Iure Annatae debantur Cardinalibus, et Curiae Romanae- Op.Gers.II,col.947.
 3. Praedictus status (cardinalium) non ideo perdit Iura sibi conventia..si forsan fuerint abusus aliqui personae, olim vel nunc inventi: aliquin, si argueretur adversus omnem statum nedum Ecclesiasticum, sed temporalem quod dissipandus est, deferendus et perdendus quoniam 'In multis offendimus omnes'. - Op.Gers.II,col.947.

"De materia Concilii generalis" is devoted to the exposition of the idea of the Pope's responsibility to the Council as representative of the Church,¹ and the application of the theory to the conditions of 1403. If the Pope refuses to call a Council by whom he may be judged, the Church proceeds just as if the See were vacant.² He has applied the theories of the Conciliar theorists, ultimately derived from Roman Law, that all authority has its origin in the community. It is the Council that has final legislative authority in virtue of representing the infallible Church. It has the "auctoritas diffiniendi", most of all in matters of faith.³ Even in the time of the Apostles, says d'Ailly, real authority rested not with St Peter, but with the general council of the Church.⁴ D'Ailly also says that the Council superintends finance, and regulates the subsidies granted to the various members of the ecclesiastical hierarchy.⁵

1. ...tam de iure humano quam divino concedendum est Papam posse ab Universali Ecclesia vel a generali concilio...in multis casibus iudicari et condemnari et ab eo ad Concilium in multis casibus posse appellari. De materia. MS 1571, f. 63.
2. De materia. MS 1571, f. 65.
3. ...auctoritas diffiniendi, maxime in materia fidei, pertinet ad Concilium generale. Et idem dicunt aliqui, quando agitur de facto Papae. Von der Hardt, Rerum Conc. Const. IV, col. 136.
4. Ibid., vol. II, sec. 197. Debet providere quod de communibus Ecclesiae bonis pro cuius generale utilitate laborare tenentur, eis decenter convenienterque subveniatur, non minus quam inferioribus Prelatis. Op. Gers. II, col. 946.

1. See supra p. 33.
2. De materia. MS 1571, f. 63.

D'Ailly also suggests that to meet the need of the Church in time of schism the council has power to delegate its authority to an elected committee of its own members, and claims that this is justified by precedent.¹ Such a power, if used, would mean the creation of a permanent committee at the papal court or elsewhere, which, having the power of the council, would be far more than an advisory body, and would mean a considerable check on the powers of the Pope.

In his "De materia Concilii Generalis" d'Ailly gives a complete analysis of the essential feature of a general council. Firstly, he says, it must be summoned by the authority of the Pope and with his consent. Even when accused of heresy, the Pope should summon the Council. Secondly, all the bishops must be summoned.² Thirdly the "auctoritas statuendi et diffiniendi" must belong to the bishops alone, even in the case of a heretical Pope. Others may attend the Council in an advisory capacity, - "ad consilium discussionis;" as witnesses, - "ad testimonium veritatis"; or as the executive power, - "ad auxilium executionis"; but it is the work of the bishops to give the final decision, - "ad iudicium diffinitionis". To prove his point he quotes the precedent of four principal councils which were attended by

1. Von der Hardt vol.II,col.197. See supra p.83.

2. De materia.MS 1571,f.21.

bishops only, and points out that the acts of a Council are subscribed first by the bishops. Once the Council is summoned and sitting, the Pope or one chosen to represent him should preside, unless there is some good reason why he should not.¹

This form, says d'Ailly, is highly important, and all bodies claiming the title of Councils without being in this form are mere conciliabula, and are suspect as such.² Extraordinary conditions alone can warrant a departure from this form, but here, as always, d'Ailly is ready to admit that circumstances alter cases. If the Pope will not summon a council, the summons may come not only from the Cardinals, but even from any of the faithful, more especially the great, who by their authority or their zeal are able to cooperate in the execution of the decrees of the Council.³

A striking instance of his sacrifice of theory to common sense is found in his attitude to the question of voting in the Council of Constance. He had said at various times that the "auctoritas statuendi et diffiniendi" belonged to the bishops

-
1. ...Concilii Generalis, in quo Papa vel suus Vicarius, ipso absente, praesidere debet, nisi causa manifesta, et in iure divino fundata obstiteret. Op.Gers.II,col.938.
 2. Ita cum forma sit de essentia rei, si non servaretur forma iuris canonici, iam non esset Concilium, sed conciliabulum seu conventiculum suspectum. De materia.MS.1571,f.17.
 - 3: ...per quoscumque fideles, specialiter maiores et potentiores qui vel autoritativa potestate, vel charitativa administratione, scirent et possent ad executionem cooperari. Op.Gers.II,col.113
See also De materiaMS.1571,ff.65-66.

only; here was a large concourse, not only of Cardinals, Archbishops and Bishops, but also of members of the Universities, and even of laymen, some of them of very exalted rank; were all but the Bishops to be excluded from the voting? D'Ailly, in a tract printed by Von der Hardt,¹ denies that the right of voting is to be confined to the Bishops in the Council of Constance.²

In the first paragraph he justifies his change of attitude; there are, he says, two kinds of Councils, the normal, dealing with matters of faith, and the abnormal, dealing with matters such as the Schism. He proposes to discuss the latter only. He claims that extraordinary circumstances demand extraordinary measures, and says that he regards the Council of Constance as a council extraordinary. There have been in the course of the history of the Church various ways of convoking councils and of deliberating in them; sometimes they included all the faithful, sometimes bishops, priests and deacons, sometimes the bishops alone, sometimes bishops and abbots, and sometimes the Emperor has convoked and presided at a general council.³

-
1. Suborta Disputatio de iure voti et diffinitionism quibus competat in Concilio...cedula Cardinalis Cameracensis...II,col.
 2. Ad obviandum proterviae et inscitae quorundam, dicentium(224. quod in hoc sacro Concilio Constantiensis...soli Prelati maiores Episcopi et Abbates habeant vocem in definitiva sententia agendorum, considerata sunt quae sequuntur. V.der H.II,col.224.
 3. This argument is repeated in the "De Eccles.Pot". Op.Gers.II, col.941 - "de iis qui vocem habeant deliberativam in Conciliis generalibus."

From these facts, he says, many useful precedents arise for present arrangements. Originally the bishops alone voted in Councils, since they had administrative power, "administrationem populi", and were men noted for their piety and wisdom. Later the abbots joined them for the same reason, and because they had administrative power in the communities under their care. For the same reason the priors and majors of the various orders should have a vote before those "useless" bishops and abbots who are titular merely. It seems absurd to d'Ailly that a titular bishop or abbot, having few or no suffragans, should have as much influence in the Council as the Archbishop of Mainz and other great prelates, imperial princes and others who have¹ many more parochial churches and much larger flocks than they. Similarly, he says, Doctors of Theology and of Civil and Canon Law are to be allowed to vote, on account of their authority to teach, which gives them greater authority than that of an ignorant titular bishop or abbot. He points out that if they were not mentioned in early councils, it was because there was no class of men corresponding to the Universities at the

1. Et mirabile videretur, quod unus talis Archi-episcopus, aut Episcopus vel Abbas paucos aut nullos suffragantes habens, et parvum aut nullum sibi subiectum, haberet tantam vocem in Concilio sicut Archi-episcopus Mogentinus, ac alii magni Praelati et Principes Imperiales...qui plures habent parochiales Ecclesias in quibus est mior populus...Von der Hardt, II, col. 225.

at the time, as the "studia generalia" did not then exist. A good precedent for their voting has been created at the Council of Pisa, and any passing over of their rights in this respect in the present Council would imply criticism, if not condemnation of the work of the Council of Pisa. Finally, he says, in the case of the Schism, it would be unjust and unreasonable to exclude from the voting the antetemporal Princes and their ambassadors present at the Council. The attainment of peace is vital to them and their subjects, and without their help and counsel, he acknowledges, the decrees of the Council would be useless because never enforced. He apparently considers that the secular princes represent the community just as the prelates do, and that therefore their votes should be counted with the others. The whole validity of the Council depends on the authority of the community it represents, and the votes should go to the people best qualified to represent that community.

It was definitely part of d'Ailly's plan that the secular arm should be called upon to assist the Church, both with its advice and with more substantial aid. In his "Epistola

ad Johannem XXIII" he makes an impassioned appeal to Sigismund and "the rest of the Princes of the earth" for the help of

1. Op. Vars. II, col. 638. 2. 3. 4. See supra pp. 73-74.

consolation and the assistance which he says they are bound to render.¹ It is for that purpose, he says, that they received the temporal sword from God, that they might be a terror to evil-doers, and the champions of the Church. It is their duty to summon the Council needed by the Church, if there is nobody else who will or can. On another occasion he appealed to the King of France, in a letter from the University; he asked him to remember the duties attaching to his office and title of Most Christian King, and to come to the defence alike of his own honour and of the Church, laying aside all temporal interests, however profitable.²

Any such intervention on the part of the Prince is to take place only at the request of the Church. That this was d'Ailly's opinion is shown by his attitude in the years 1407-8, when he dissociated himself from the action of the King and the University in threatening Benedict XIII with secular force through Boucicault, who was ordered to arrest the Pope if he could.³ Nevertheless it was d'Ailly himself who in 1409 urged Charles de Malatesta to take advantage of the presence of Pope Gregory's presence in his city of Rimini to get Gregory to abdicate, by

1. ...ad vos me converto, O Christianis Reges, et ad te praecipue Illustrissime Romanorum Rex...Ad te, inquam, caeterosque Principes terrae confugio, pro consolationis auxilio et executionis subsidio: nam propter hoc a Deo recepistis gladium, ut sitis Ecclesiae pugiles, ad vindictam malefactorum, laudem vero bonum.

- Op. Gers. II, col. 883. 881-882

2. Buaeus, Hist. Univ. Paris. vol. IV, pp. 692-693.

3. See supra pp. 75-76.

force, if force was necessary.¹ His theory seems to have been that secular intervention is justifiable only when the Church needs it,² and that the Church itself, in the person of the Cardinals, is judge of that necessity. He is implying, in fact, what John of Salisbury had said two hundred and fifty years³ before, that the Prince is the "sacerdotis quidam minister" wielding the temporal sword at the bidding of the Church, though he would deny John of Salisbury's theory that both swords belong in actual fact to the Church.

With the account of the powers and responsibilities of the secular power with regard to the Church, d'Ailly's theory is complete. He has invested all power originally in the community of the faithful, the Universal Church. For practical purposes this body is governed by a number of officials through whom this power is exercised. These officials are elected, or should be, either directly or indirectly by the community, and form a hierarchy of which the head is the Pope, who is himself elected by the representatives of the community. All these officials are responsible to the community from which they have received their mandate; for the sake of convenience their dictator

1. Cp. Supra, p. 79.

2. Cp. Admonendi sunt propterea Principes ut omnes illicitam violentiam, tanquam spiritu sancto contrarium, arceant. De materia. MS 1571, f. 30. D'Ailly is referring to the necessity for freedom in the Council, and warning the Princes not to push their policing activities too far, but the protest implied by his attitude in 1408 is due to the same ideas.

3. Est ergo principes sacerdotii quidam minister. Policrat. iv, 3.

and judge is the General Council, which also derives its authority from its representative character, and which includes representatives of the community in its political as well as its ecclesiastical aspects; that these representatives happen to be secular Princes is irrelevant; they are themselves members of the Church, and in their capacity as administrators they represent its members better than do some of the titular officers of the Church. As secular Princes and possessors of coercive jurisdiction they must support the men of peace in their task of governing the ecclesiastical polity, since that, too, is composed of men, who will do nothing without coercion.

The fundamental flaw in this construction has been¹ pointed out. As the Church is not an ordinary polity, but a divine institution, therefore there are the divine elements of Apostolic Succession and inspiration by the Holy Spirit to be considered. It is the ordination that makes the priest, not any kind of election by the community, and it is only ecclesiastics, in the sense of members of the priesthood, that can hold office in the Church. Similarly the Council remains merely a gathering of fallible members of the Church, -though the Church it represents is infallible, -until it receives the inspiration

1. See supra pp.157-158 and 173-174.

of the Spirit. For d'Ailly there could be no way out of the difficulty, save by means of a pious belief in the probable infallibility of those who were gathered together in the name of God and of the Universal Church, which could be supposed to have delegated its attribute of infallibility to its truest representatives.

at the time. The feud between the members of the two great schools of philosophy, Nominalism and Realism, was very real, and it happened at the time that the Nominalists were supreme. Accordingly joined their ranks, and became an ardent student of the work of William of Occam, the "Venerabilis Doctor" as he called him, and especially of the "Dialogus" which Occam produced seven years before d'Ailly was born.

Occam first went into opposition to the papacy over the question of apostolic poverty, maintaining the doctrine of the Franciscan Order to which he belonged, against Pope John XXII. In 1323 the Bishops of Ferrara and Bologna were sent by the Pope to inquire into the matter that Occam had, in public, maintained that the Pope's definition was heretical, and four years later Occam was arrested for further defence of his opinions at Paris.

1. Op. Cors. II, col. 659.
2. The Dialogus was in circulation by 1343.
3. For these, and all other particulars concerning the life of Occam, see E. F. Poole's article in the Dictionary of National Biography.

PART III.
PIERRE D'AILLY AND WILLIAM OF OCCAM.

When d'Ailly entered the Faculty of Arts at the University of Paris in 1363, he already had an intense interest in philosophy and, most of all, in logic. As was natural, he engaged in the philosophical and dialectical disputes in the University at the time. The feud between the members of the two great schools of philosophy, Nominalism and Realism, was very real, and it happened at the time that the Nominalists were supreme. D'Ailly accordingly joined their ranks, and became an ardent student of the work of William of Occam, the "Venerabilis Doctor" as he called him, and especially of the "Dialogus" which Occam produced seven years before d'Ailly was born.

Occam first went into opposition to the papacy over the question of apostolic poverty, maintaining the doctrine of the Franciscan Order to which he belonged, against Pope John XXII. In 1323 the Bishops of Ferrara and Bologna were sent by the Pope to inquire into the rumour that Occam had, in public, maintained that the Pope's definition was heretical, and four years later Occam was arrested for further defence of his opinions at Paris.

1. Op.Gers. I, col. 650.

2. The Dialogus was in circulation by 1343.

3. For these, and all other particulars concerning the life of Occam, see R.L.Poole's article in the Dictionary of National Biography.

In May 1328 he escaped with the help of Lewis the Bavarian, and thenceforth devoted himself to defending the Emperor in his quarrel with the Pope. In June 1328 John XXII excommunicated Occam and his friends, accusing Occam of "heresies and errors" in his writings.¹ Occam still maintained that it was the Pope who was heretical, and devoted a great part of his work to investigating the question of what was to be done in the event of a Pope's becoming heretical and how the Church could keep some sort of check on the pontiff. Part one of the "Dialogus" is devoted to heresy and its punishment in all its aspects, especially with regard to heresy in high places, and the second part is entirely "de erroribus Johannis XXII". What the question of the Schism was to d'Ailly, the question of a Pope accused of heresy was to Occam.

The influence of the thought of Occam, and most of all, of the "Dialogus" on the work of d'Ailly, both at the University and in later life, is unmistakeable. Quite early in his career,² d'Ailly produced an "Abbreviatio Dyalogi Okam"³ which contains not only whole paragraphs which d'Ailly incorporated in various other works without quoting their source, but certain incidental comments of d'Ailly's own which show how he

-
1. See the Bull of excommunication dated June 6th 1328, printed in Martene et Durand's *Thseaurus Novus Anecdotorum*, vol. II, p. 749.
 2. M. Salembier dates the tract somewhere between 1372 and 1395.
 3. Paris, Bibl. Nat. no. 14579, ff. 88-101.

regarded Occam's opinions. All these comments show approval, such and such a chapter is noted as being "valde notabile", or such and such proofs are called "valde efficiati",¹ but the note of approval is sometimes given to the chapter in which Occam disproves the view that is generally assumed to have been his own.² The fact that it is almost impossible to tell which opinions Occam really held,³ since the whole tone of the "Dialogue" is that of a dispassionate discussion between master and pupil, makes it necessary to refer to d'Ailly's "interest in suggestions made by William of Occam" rather than to his adoption of Occam's theories. All kind of statements, from the orthodox view to the wildest heresies are to be found in the "Dialogus".

It is undeniable that d'Ailly's conceptions of the principles of government, such as law, dominion, justice, etc., his conception of the Church and the position of the clergy as its hierarchy, and, to a certain extent, his idea of the part played by the laity, his estimation of the source and degrees of power in the ecclesiastical hierarchy, all these can be found in the "Dialogus" though d'Ailly does not always follow his great

-
1. Noted as "valde notabile" - Part I, lib.v, caps. 5 and 7, MS f. 91, caps.24 and 28, MS f.91 verso, cap.33, MS f.91 verso; lib.vi caps.6 and 7, MS f.91-2, cap.99, MS f.93 verso; lib.vii cap.28, MS f.94. Various comments on various proofs and arguments also; very few comments on Part III.
 2. Part I, lib.v, cap.32 proves that the faith may be preserved in the women alone if all the men err; cap.33 produces two reasons against this view, which d'Ailly calls "notabile" MS.f. 91, verso
 3. Except by comparing the Dialogue with his statements elsewhere.

master's thought to its logical conclusion.

The "Dialogus" as it stands, (it was never completed according to the plans of the author), contains three parts, part I "de fautoribus haereticorum", containing seven books discussing the seat of authority in matters of faith, part II "de erroribus Johannis XXII" and part III "de gestis circa fidem altercantium" which comprises four books concerning the authority of the Pope and clergy and three books, imperfect, concerning the authority of the Empire. It is extraordinary that d'Ailly in his "Abbreviatio Dialogi Okam" entirely omits any reference to the first four books (Tractatus I) of Part III, which would seem to have been the very part which would have held most interest for him. Existing manuscripts of the "Dialogus" are very imperfect; of five different copies examined by the writer, one only was complete, or nearly so, but this fact does not establish d'Ailly's ignorance of the part he omitted since we have no means of telling what documents he had at his disposal, or whether the manuscripts obtainable in the places in which he worked were complete. Apart from the fact that a great deal of his own thought is very closely allied to the statements made by Occam in the Tractatus primus Tertiae

1. Bibl. Mazarine, Paris. MS no. 3522, ff. 149-297; part of Part III tractatus I, lib. iii, cap. 10, *ibid.*, cap. 26, and the last paragraph or two, missing.

partis, d'Ailly suggests that he knew that his copy was faulty, - he concludes by saying that he has been able to find no more of "this notable work" at the end of what he calls the "decimum¹ sextum et ultimum capitulum" of ParsIII, tract, 2, lib.iii, whereas the last book of part three really contains twenty-three chapters² at least.

In discussing his theory of just dominion, and in confuting the arguments of Armarchanus that dominion is dependent on grace, d'Ailly definitely quotes Occam, who has, he says, proved wonderfully well that many men who were infidels, and so could not have been in a state of grace, were yet excellent³ Emperors. Occam indeed goes further, - he says that heretics can hold dominion justly as they are on the same level as the infidel, and insists that heresy or conviction for heresy cannot⁴ entail deprivation of dominion or imperium. Only the good are worthy of dominion, but the claims of the wicked are perfectly valid, since all the powers that be, however their power is exercised, are ordained of God, - an argument which d'Ailly⁵ adopts in toto.

1. Et non plus de hoc natabili opere potui reperire. MS f.101, vo.

2. MS Bibl. Maz. no. 3522.

3. Op. Gers. I, col. 650. cp. Dialogus pt III, tr. 2, lib. i, cap. 24.

4. Dial. pt. I, lib. vi, cap. 68.

5. See supra p. 116.

Justice is as independent of grace as is a just title, says Occam. There have been many pagans who have lived honourable lives in the light of reason, and who were admitted as witnesses because of their known probity. When St Augustine says that where there is not faith there can be no justice, he is speaking only of perfect justice, which corresponds to Christian charity. The justice found in these pagans he calls political or civil justice, which they show to others not from any ulterior motive, but simply "quia recta ratione sequi volebant."¹

The manifestations of this justice are varied; some of the "opera iusticie" are common alike to rulers and ruled, such as the obligation to render to every man his due, others again are only to be rendered from inferiors to their superiors,² and so on; all of which d'Ailly reproduces in his "Speculum considerationis",³ though not in the same terms.

On the matter of law, too, d'Ailly has borrowed freely from his master. Occam says that there are three kinds of natural law, that which is consonant with natural reason; that law which is observed by those who have only natural equity to guide them, having no custom or constitution to go by; and that which is derived from the "ius gentium" or other human institution by

1. Dial.pt.I,lib.vi,cap.77.

2. Dial.pt.I,lib.vi,cap.39.

3. See supra p. 119.

natural reason, until some regulation is made to the contrary¹ by some adequate power. All natural law can be called divine law, since it is of God, the "conditor naturae", and because it is contained implicitly or explicitly in the Scriptures.² D'Ailly commends this definition as "valde bonam".³ The perfect law of liberty, adds Occam, is the Law of Christ as revealed in the New Testament.³

Civil Law and the institution of secular princes became necessary owing to the difficulty of keeping order in society; the prince, therefore, is but the minister of the law, and the Emperor is called the "lex armata" - he is free only from the laws he himself has made.⁴ This distinction is directly comparable to d'Ailly's statement that the prince is free from his own laws, but not from the divine authority of the Church or from divine law.⁵

The power of the prince so placed comes from God; his

1. Dial. pt. III, tr. 2, lib. iii, cap. 6.

2. ...ibi notat distinctionem de iure naturali valde bonam. Item qualiter omne ius naturale potest vocari ius divinum quia est a Deo qui est conditor naturae et quia aliquomodo explicite vel implicite continetur in iuris divino scilicet in divinis scripturis. Abb. Dyal. Okam MS 14579, f. 101.

3. Dial. pt. III, tr. I, lib. i, cap. 5.

4. Propter idem facta (the need for keeping order) sunt leges et instituti sunt principes seculares. Unde principes ministri sunt legis et imperator lex armata vocatur. Dial. Pt. III, tr. 2, lib. i, cap. 1.

5. De materia Concilii generalis, MS 1571, f. 68.

office comes from the people. Occam describes how the authority of the Roman Emperor is from the Romans, the authority (iurisdictio) of the various Kings of the earth is from their people, or from the overlord who is authorised to give the people a king, as the Emperor can do. The people, having given this authority, can withdraw it at will; in the case of the Romans, the Pope can act as executor of the Roman people in dethroning the Emperor if necessary, thus using an authority unknown to St Peter. Fundamentally it is the people that chooses its rulers¹ and invests them with coercive power. This law applies to ecclesiastical rule as well as to secular, - hence the Romans have, by natural and divine law, the right to elect the Pope, since it is obviously reasonable that any prince, prelate or rector should be elected by those over whom he is to rule, unless some provision has been made to the contrary by some competent authority; d'Ailly has copied this passage word for word into his "Abbreviatio"² and into his "De Ecclesiae etc. potestate".

1. Dial.pt.III, tr.2, lib.iii, cap.6.

2. Romani...habent ius eligendi summum pontificem quia supposito quod aliquibus sit aliquis prelatus vel princeps vel rector preficiendus evidenti ratione colligitur; quod si per illum vel per illos cuius vel quorum interest; non ordinetur contrarium illi quibus est preficiendus habent ius eligendi, et preficiendi eis, unde nullus dari debet ipsis invitis. Ibid. and Abbreviatio MS 14579 f.101; also Op.Gers.II,col.930 - see supra p.157.

With regard to his discussion of the Church and the ecclesiastical hierarchy, d'Ailly again follows Occam very closely. He, like Occam, discusses various possible definitions of "the Church",¹ and these definitions are found in almost the same order and terms as in the "Dialogus".² The Church, says Occam, the mystical body of all Christians, whose foundation is not the Pope, but Christ Himself, has certain powers which are proper only to itself. It is infallible,³ while neither its representative, the General Council, nor its officers, the Pope and Cardinals, nor its mother church, the Roman Church, can claim that infallibility. Here again d'Ailly quotes his master. The faith of the whole priesthood might fail, the faith of all men might fail, and the faith could be preserved in the women, even in one woman, as it was at the time of the Crucifixion, when it remained in the Virgin alone; should all the women fail, the faith might yet be preserved in baptised infants.⁴ D'Ailly, in

1. Op.Gers.I,col.665.

2. Dial.pt.I,lib.v,cap.31.

3. ...una sola ecclesia militante dicitur quod non potest errare contra fidem. collegium autem cardinalium non est ista ecclesia; licet sit pars huius ecclesiae...ergo congregatio cardinalium potest errare contra fidem. Dial. pt.I,lib.v,cap.7. Also -sicut concilium generale representat ecclesiam universalem et eius vices gerit; ita etiam papa representat ecclesiam universalem... Sed papa non hoc obstante potest contra fidem errare, igitur et generale concilium hoc non obstante poterit contra fidem errare. -Dial.pt.I, ~~cap~~ lib.v,cap.25.

4. Dial.pt.I,lib.v,caps.32-34.

quoting these arguments, avoids discussing them, though he allows of some probability in them, but later he says that the case¹ will never be put to the test.

Occam gives the Church very real powers apart from its attribute of infallibility. It can judge the Pope if he submits voluntarily to its judgment, or even² in some cases, if he will not submit. Occam discusses the question of the responsibility of the Pope to the Church, more particularly in the event of his becoming heretical, and he gives the Church and the Council³ considerable powers over him. The powers of the Church, far from being dependent on the Pope, are increased during a vacancy⁴ of the See; absolute power rests with the community, of whom all ranks of the clergy are but the agents and ministers. Should the power of the Church fail, as it may do through impotence, malice, culpable neglect or ignorance on the part of its ecclesiastical members, its secular members must be called in to save

1. Licet autem omnes praedictae assertiones habeant secundum magis et minus aliquas apparentes rationes, tamen eas ad praesens pertractare non patitur temporis brevitatis... Op.Gers. vol.I,col.666, and see supra pp.141-142.

2. Dial. pt.I,lib.vi,cap.65.

3. ..ut dicant praedictam inquisitio (de papa manifeste in heresi deprehenso) primo et principaliter spectare ad universalem ecclesiam. si essent ita pauci catholici qui omnes convenirent in unum vel possent leviter convenire. Secundo pertinet ad concilium generale quod vicem tenet ecclesiae universalis. If neither a meeting of the Church nor a general council is possible, proceedings are to be taken by the diocese in which the defaulting Pope is at the time. Dial.pt.I,lib.vi,cap.57.

4. Ibid.cap.86.

the situation. This theory cannot be said to belong peculiarly to Occam - it had been put forward by the apologists of the time of Philippe le Bel, before the publication of the "Dialogus". Here d'Ailly would not follow Occam; though he lived at a time when the papacy was giving an exhibition of the worst side of human nature, rather than of its divine nature, he never approximated to Occam's entire disrespect for the papacy and its prerogatives.

The various powers of the Church are exercised through the members of the ecclesiastical hierarchy, which both d'Ailly and Occam describe as divine in origin and indestructible by man.¹ D'Ailly's claims for the Theologians are largely based on what Occam has said before him; with regard to the Scriptures and their interpretation, Occam gives them greater authority than those bishops who are not theologians, and even gives them authority over the Pope in such matters, on occasion.² Disputed points are to be judged by the Pope, a Council or the Church.³ Both Occam and d'Ailly agree that it is the duty of the theologians to keep the faith pure and to combat heresy

1. Dial.I,vi. 68. ...prelatis ecclesiastica a iure divino solummodo sumpsit originem nec humanitus est inventa; quamvis qui aliqui sint prelati ecclesiastici habeant a iure humano. Quod enim unus sit episcopus et non alius est a voluntate humana.

2. Dial.pt.I,lib.i, and lib.ii,cap.14.

3. Sed assertio quae in rei veritate est heretica; de qua tamen an sit heretica inter doctores opiniones reperiuntur contrarie solemniter et explicite condemnare pertinet ad summum pontificem vel ad concilium generale vel ad ecclesiam universalem.

wherever possible. The bishops are also described as the guardians of their flocks' spiritual welfare and their defence¹ against heresy.

What Occam has to say on the subject of the Cardinals is closely connected with his discussion of the Roman Church, and of the right to elect the Pope. The Cardinals, he says, who are sometimes called the Roman Church, are not infallible, and though they at present chance to have the right of election, they may lose that right by bad conduct or heresy.² His discussion of the various meanings that may be attached to the expression "the Roman Church" is used in toto by d'Ailly, who, like Occam, concludes that the Roman Church is infallible only when³ by that term is meant the Church universal. The primacy of the Roman Church, too, is represented by both men as purely dependent on its identity with the See of St Peter; should the See be transferred elsewhere,⁴ as it might be, then the Roman Church

1. Dial.pt.I,lib.vi,cap.15.

2. ..per accidens est quod collegium cardinalium habet ius eligendi summum pontificem unde et aliquando ius illud nequaquam habuit; et adhuc posset illo iure privari...Dial.pt.I lib.vi,cap.88. Also pt.I,lib.v,caps 6 and 7, and pt.III,tr.2. lib.iii,cap.9.

3. ..Romana ecclesia multipliciter accipitur.aliquando enim accipitur pro universali ecclesia; aliquando pro papa; aliquando pro clero et romano populo; aliquando pro collegio cardinalium. Illa autem ecclesia quae errare non potest; est universalis ecclesia; et non collegium cardinalium. Dial.pt.I,lib.v,cap.8. See supra pp.151-152.

would lose the primacy it has enjoyed for so long.¹

The right of electing the Pope is treated by the two men in exactly the same way; it may be said to belong primarily to the Church, but for the sake of convenience, and because the Pope is the Bishop of Rome, it was given to the Romans.² If the Romans cannot or will not use their right, the Pope can make arrangements for the election³ of his successor, and give the right to any he thinks suitable.³ It is probable that at some time or other the Romans have given the Pope the right to confer the right of election upon whom he pleases - here again d'Ailly is quoting word for word from Occam when he discusses the point.⁴ If the electors lose their right through heresy or bad behaviour, the right reverts to the Romans. D'Ailly, having taken Occam's theory that all communities have the right to elect their rulers, has also taken the application of that theory.

-
1. Et imo quia transtulit sedem suam de antiocha, extunc romana ecclesia super alias ecclesias obtinuit principatum...papa respectu sedis apostolice est tante potestate quante fuit beatus petrus.sicut ergo beatus petrus utilitatis causa transtulit sedem suam de una civitate ad aliam ita potest papa sedem papalem de roma transferre ad aliam civitatem. Dial.pt I lib.vi,cap.21. See supra pp.152-153, and Op.Gers.I,col.669.
 2. Dial.pt.III,tr.2,lib.iii,cap.5.
 - 3.Ibid. cap.7.
 4. Et satis probabile est quod Romani tale ius transtulerunt quandoque in papam, et ideo tunc potuit illud conferre vel imperatoribus vel vicinis episcopis vel cardinalibus vel Romano clero vel canonicis alicuius ecclesiae romanae vel aliis secundum utilitatem ecclesiae etc. Abbreviatio MS P4579,f.101,v Dial.pt.III,tr.2.lib.iii,cap.7.

Once the Pope is elected, he enjoys all the powers enjoyed by St Peter. Both d'Ailly and Occam agree in fact, though they do not use the same words, that the only prerogative given to Peter that was not shared by the other Apostles was what d'Ailly calls the "potestas iurisdictionis"¹ or the "potestas dispositionis ministrarum."² It is to be noted, however, that in Occam's case this is only one of many views put forward; this discussion of the question of Peter and the primacy of the Apostles is given at great length and from every possible point of view in the first tract of Part III of the "Dialogus".

Both men agree that the papacy is divine in origin³ and therefore is indestructible by man. They both discuss St Peter's position with regard both to temporal and spiritual jurisdiction in detail, and both conclude that the Pope has wide powers "in spiritualibus", while any attempt on his part to interfere in temporal matters is harmful rather than conducive to the good of the Church⁴ whose minister he is.⁵ Any temporalities he possesses are his by the gift of the faithful, just as

1. Op.Gers.II,cols.958-959.

2. Ibid.,cols.927-928.

3. Quod beatus petrus super apostolos habuit potestatem et primatum a christo multi modis ostenditur. Dial.pt.I,lib.v. cap.16. Cp...licet papalis dignitas a Deo sit, unde ab homine nec minor nec maior fieri potest...Op.Gers.II,col.946.

4. Dial. pt.III, tr.1.lib.i, cap.ix. - papa autem non debet se secularibus implicare. See supra pp.174-175.

5. Papa autem est mōnōr et minister et servus christianorum in quos non debet exercere potestatem. Dial.pt.III, tr.1, lib.i, cap.9. Also papa non debet dominari super clerum -tr.2, lib.i, cap.23.

any coercive jurisdiction in spiritual matters that he may have is their gift. Apart from the Church Universal, he is nothing; the Church may arraign him for heresy or other crimes, it may judge him, depose him, condemn him to punishment if it pleases.

Though d'Ailly never advocated the use of force against even an erring Pope, he was present at and endorsed the actions of the Council of Constance, at which Pope John XXIII was deposed after judgment, committed to the care of the secular arm, quite in accordance with Occamite theories. D'Ailly's conception of the Pope as the bailiff in charge of the great estate of the Church is merely the logical conclusion of the Occamite theory of the relations between the Church and its head on earth.

With regard to the general Council, the organ through which the Church expresses itself, Occam goes further than d'Ailly cared to follow him. Both men agree that the Council is essentially a representative body, deriving its powers from its representative nature.¹ Both agree that though it can err, there is a hope of its judgment being more reliable than any other. Both agree that though the Pope should normally attend,

1. Illa igitur congregatio esse concilium generale reputandum in qua diverse personae gerentes auctoritatem et vice universarum partium totius sanitatis ad tractandum de communi bono vite conveniunt; nisi aliqui noluerint vel non potuerint convenire. Dial.pt.I, lib.vi, cap.85.

after having summoned the Council,¹ the Council can if need be do without him. Occam maintains, what d'Ailly does not, that a Council summoned by a bad Pope is worse than not summoned by a Pope at all, since all things having a bad origin are bad;¹ but he also says that a Council without the Pope has not the same authority as one held under his auspices.² The methods of Occam's Council are, on the whole, more drastic than d'Ailly would have approved in theory, but the fundamental difference between the two men is shown in the discussion of the personnel of the Council. D'Ailly in theory recognised only the attendance of the prelates and the university men; in actual practice he was forced to recognise the right of the laity not only to sit,² but also to vote in the Council. Occam not only includes the laity as d'Ailly understood it, but also the women of Christendom,³ who did not come into d'Ailly's scheme of things at all. This was one of the cases in which Occam's radicalism and secularism was too much even for d'Ailly; d'Ailly was arguing in the possibility of an experiment along the lines of his argument, or else was justifying a present expedient, while Occam was not doing anything of the sort.

-
1. Ergo concilium generale malo principio et corrupta intentione congegatum; malo exitu peragi potest...Dial.III, tr.1.lib.iii,8.
 2. ...concilium generale sine papa est inferius et minoris iurisdictionis quam sit cum papa. Dial.pt.I,lib.vi,cap.11.

The fact that d'Ailly can quote Occam and Occam's suggestions as much as he does, is extremely significant. There are few more striking examples of the fact that the heterodoxies of one generation are the orthodoxies of the next. Occam was excommunicated fifteen years before he wrote the Dialogue, for "heresies and errors"; it is possible that he had already begun to show the attitude towards the papacy that produced the Dialogue later; it is certain that the Dialogue is merely a compilation of various works of Occam written at various times during his life, and not a separate work written all at the same time.¹ Certainly the name of Occam was anathema to the papacy while d'Ailly, far from having his orthodoxy questioned, was called the "Hammer of the Heretics", and the only danger in which he ever stood came from the University, which objected to his attitude in 1406 and after, when he refused to identify himself with further rebellion.

It is also significant that it is not only in d'Ailly's youth that he goes to Occam for his inspiration. The "De Ecclesiae etc, potestate", which owes so much to the work of Occam, he produced in 1416. He only deserted Occam when it had been proved that Occamite methods were not good in practice, and that

1. See on this point R.L. Poole in the Dictionary of National Biography.

the Church was almost completely helpless without its head,¹ whether it was a monstrosity, as d'Ailly said it was, or not: "constitutional government" in the Church was tried by the Conciliar Movement, and even its most enthusiastic exponents were forced to confess, tacitly if not explicitly, that it was found wanting.

Armenianus - De pauperie Salvatoris. In Wicel's De Summa divina, edited for the Wicel Society by R.L. Poole, 1899.

Bourgeois de Chastenot - Nouvelle histoire de Canole de Constance (esp. Preuves) 1918

Bulsaes (Egasse du Boulay) - Historia universitatis Parisiensis. 1870.

Cusan, Nicholas de - De Concordantia Catholica. Opera omnia, 1899.

Denifle, H.S. - Chartularium universitatis Parisiensis, vols. II and III. 1889.

Monysius, St. Abbey of - Chronique de Religieuses de Saint-Denis, publiée en latin pour la première fois et traduite par R.L. Bellaguel. 5 vol. 1898-1900.

Verrier, Guilford - Tractatus pro Defensione Benedicti XII, in Martens et Dureau, Tractatus pro Defensione Benedicti XII, vol. II, 1885-1887, 1917.

Branch, A. - Dictionnaire des sciences philologiques. 1878.

Einhardus, Einhardus de - Epistola Einhardus. In Martens et Dureau, Tractatus pro Defensione Benedicti XII, vol. II, 1885-1887, 1917.

Hureau, J.B. - Histoire de la papauté au moyen âge, vol. II, 1899.

1. See supra p.89.

BIBLIOGRAPHY.

- For Pierre d'Ailly's works, see note to Introductory, pp.11-15.
- Almeida, F.de - La Découverte de l'Amérique. Pierre d'Ailly et Christophe Colomb. Reprinted from the Revista de História of April-June 1913.
- Argenté, Du Plessis d' - Collectio Iudiciorum de Novibus Erroribus, volume I. 1728.
- Armachanus - De pauperie Salvatoris, in Wiclef's De Dominio divino, edited for the Wiclef Society by R.L.Poole, 1890.
- Bourgeois du Chastenet - Nouvelle histoire du Concile de Constance (esp. Preuves) 1718.
- Bulaeus (Egasse du Boulay) - Historia universitatis Parisiensis, 1670.
- Cusa, Nicholaus de - De Concordantia Catholica. Opera omnia, 1563
- Denifle, H.S. - Chartularium universitatis Parisiensis, vols.II and III. 1889.
- Dionysius, St, Abbey of - Chronique du Religieux de Saint-Denis, publiée en latin pour la première fois et traduite par M.L.Bellaguet. 6 tom. 1835 etc.
- Ferrer, Boniface - Tractatus pro defensione Benedicti XIII, in Martène et Durand, Thesaurus novus anecdotorum vol.II, cols.1435-1529. 1717.
- Franck, A. - Dictionnaire des sciences philosophiques. 1875.
- Gelnhausen, Conradus de - Epistola Concordiae, in Martène et Durand, Thes.nov.anec. II, cols.1200-26.
- Haureau, J.B. - Histoire de la philosophie scolastique, vol.II, 1880.
- Gerson^{J.}_h - Opera omnia, edited Ellies-Dupin, 1706.

- Goldast, M. - Monarchia, volume II. 1614.
- Lenfant, J. - Histoire du Concile de Pise. 1724.
- Langenstein, Henricus de - Consilium Pacis, in Op.Gers.II, cols.
809-840.
- Martène et Durand - Thesaurus novus anecdotorum, vol.II. 1717.
Veterum scriptorum et monumentum historicum,
dogmaticorum, moralium amplissima collectio.
volume VII. 1724-33.
- Monstrelet, Enguerrand de - Le premier volume de enguerran de
monstrelet, etc. 1500?
- Occam, Gulielmus de - Dialogus. 1494, and in Goldast, Monarchia
vol.II.
- Pontfrianne, R. - Un évêque français au XIVE siècle. 1896.
- Rocquain, F. - La cour de Rome et l'esprit de réforme avant
Luther. vol.III. 1897.
- Salembier, L. - Petrus de Alliaco. Latin thesis presented at
the Catholic University of Lille. 1886.
The Great Schism of the West, trans. by M.D.
International Catholic Library, no.VIII. 1907.
- Tschackert, P. - Peter von Ailli. 1877.
- Valois, N. - La France et le grand schisme de l'Occident. 4 vols.
1896.
- Von der Hardt, H. - Rerum Concilii Oecumenici Constantiensis
6 vols. in 4. 1696.

PERIODICALS.

- Mémoires de la société d'Emulation de Cambrai, vol.IXIV. 1910.
- Biographie et Bibliographie de Pierre d'Ailly, by L.Salembier.
The latest and fullest list of the works of Pierre d'Ailly.
- Revue Historique, vol.IX, 1879. Max Lenz. (revue of Tschackert's
Peter von Ailli).